

provisions of the Burke Bill are special because they deal with only one commodity, milk. The courts of this state have in numerous cases very clearly enunciated the rule that the general provisions in a statute are limited by specific provisions and that if there is a conflict between a general statute and one on a special subject-matter, effect should be given to the statute upon the special subject-matter. *State, ex rel. vs. Brown*, 112 O. S. 590; *Douglas vs. State*, 16 O. A. 95; *Perkins vs. Bright*, 109 O. S. 14; *Public House vs. Flury*, 25 O. A. 214.

In the case of *State, ex rel. vs. Connor, Supt. of Public Works*, 123 O. S. 310, it was held as disclosed by the first branch of the syllabus:

“Special statutory provisions for particular cases operate as exceptions to general provisions which might otherwise include the particular cases and such cases are governed by the special provisions.”

In the body of the opinion the court cites with approval the case of *State, ex rel. vs. Zangerle*, 100 O. S. 414, wherein it is stated in the first paragraph of the per curiam opinion:

“A special statute covering a particular subject-matter must be read as an exception to a statute covering the same and other subjects in general terms.”

Based upon the foregoing citations and discussion, it is my opinion that a producer-distributor required to be licensed under the provisions of House Bill No. 671 of the 90th General Assembly (Sections 1080-1 to 1080-23, General Code), may not be exempted under the provisions of Section 6351, General Code, from paying the fee therefor.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1608.

RABIES—DUTY OF COUNTY COMMISSIONERS TO PAY FOR PASTEUR TREATMENT AND OTHER MEDICAL AND SURGICAL EXPENSES OF PERSONS HANDLING ANIMALS SO AFFLICTED, WHEN—TERM “OR INJURED” DEFINED AS USED IN SECTION 5851, GENERAL CODE.

SYLLABUS:

By virtue of sections 5851 and 5852, General Code, county commissioners are required to recognize and pay from the general funds of the county claims found to be correct and just for medical and surgical expenses, including expenses for Pasteur treatment by persons who have handled animals afflicted with rabies, such persons at the time having scratches or other abrasions on their hands.

Inoculation by the virus from an animal afflicted with rabies is an injury within the meaning of the term “or injured” as used in section 5851, General Code. (Opinion No. 3826, of the Opinions of the Attorney General for 1926, approved and followed.)

COLUMBUS, OHIO, September 25, 1933.

HON. FRANK A. ROBERTS, *Prosecuting Attorney, Batavia, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion which reads as follows:

“Will you kindly advise as to whether or not under Section 5851 and 5852 of the General Code the County Commissioners are bound to recognize as duly verified itemized account for Pasteur treatment rendered to a patient who has handled an animal afflicted with rabies, and who at the time of handling such animals had scratches upon his hands caused by briars, no direct injury having been inflicted by the animal itself.

In other words I am anxious to learn whether or not the expression “bitten or injured”, could include a simple physical contact with the diseased animal with probable infection transference.”

Sections 5851 and 5852, General Code, provide for the payment by the county commissioners of medical, surgical and other incidental expenses incurred by a person bitten or injured by a dog, cat or other animal afflicted with rabies, in an amount not to exceed two hundred dollars. Section 5851 reads:

“A person bitten or injured by a dog, cat or other animal afflicted with rabies, if such injury has caused him to employ medical or surgical treatment or required the expenditure of money, within four months after such injury and at a regular meeting of the county commissioners of the county where such injury was received, may present an itemized account of the expenses incurred and amount paid by him for medical and surgical attendance, verified by his own affidavit and that of his attending physician; or the administrator or executor of a deceased person may present such claim and make such affidavit. If the person so bitten or injured is a minor such affidavit may be made by his parent or guardian.”

Section 5852, General Code, provides:

“The county commissioners not later than the third regular meeting, after it is so presented, shall examine such account, and, if found in whole or part correct and just, shall order the payment thereof in whole or in part to the patient and to the physician who rendered such treatment, in accordance with their respective claims, but a person shall not receive for one injury a sum exceeding two hundred dollars.”

The question presented by your inquiry is whether or not there must be a direct injury, as a bite or other abrasion to the individual by the animal afflicted with rabies, in order to entitle a person to reimbursement by the county for medical expenses. Section 5851 *supra*, not only provides for reimbursement where a person is actually bitten by the animal, but provides for reimbursement in cases of persons “bitten or injured.”

Your attention is called to the Opinions of the Attorney General for 1926, at page 491, wherein it was held that a person could be reimbursed by the county for an injury received other than by a bite of a dog. To the same effect is the opinion to be found in the Opinions of the Attorney General, 1928, at page 172,

which held that a person who fell and broke his arm, upon being attacked by a mad dog, could be reimbursed by the county commissioners for medical and surgical expense.

It is stated in the 1926 opinion that:

“A person may thereby be injured by an animal afflicted with rabies without being bitten or scratched. The fact that by the use of the Pasteur treatment no injury is thereafter apparent, would not of itself take such cases without the statutes.”

In 1926 the same provision was contained in section 5851, General Code, for reimbursement of medical expenses incurred by reason of a person being bitten or injured by an animal afflicted with rabies. Although this section has been amended several times during the period from 1926 to date, the provision defining the nature of the injury has not been changed.

The purpose of sections 5851 and 5852, General Code, is to make available Pasteur or other similar treatments to all persons who have been exposed to animals afflicted with rabies. It is necessary that these treatments be administered immediately after the person is exposed to the germs. These treatments are precautionary measures to prevent hydrophobia and it is impossible to tell for sometime after the exposure whether the person has been inoculated with the germs. The treatment is purely for the protection of the individual and it was the intent of the legislature that all the precautionary measures be taken to prevent this dreaded disease and, by virtue of these sections, has made possible these treatments to all persons, regardless of their financial status, who have been exposed to the germs of animals afflicted with rabies.

A person who has handled an animal afflicted with rabies, and who at the time had scratches upon his hands caused by briars, thereby becoming inoculated with the virus from the dog, has, in my opinion, sustained an injury within the meaning of section 5851, General Code.

In specific answer to your inquiry, I concur in the conclusion reached by the 1926 opinion, and it is my opinion that the county commissioners by virtue of sections 5851 and 5852, General Code, are required to recognize and allow a duly verified claim for Pasteur treatment rendered to a person who has handled an animal afflicted with rabies, such person at the time having scratches upon his hands caused by briars.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1609.

LIQUIDATION OF INSURANCE COMPANY—INSURANCE POLICIES
ASSIGNED BY MEMBERS TO INCORPORATED CHURCH CANNOT
BE OFFSET AT FULL CASH VALUE AGAINST MORTGAGE IN-
DEBTEDNESS OF CHURCH TO INSURANCE COMPANY.

SYLLABUS:

Insurance policies assigned by members of a congregation to an incorporated church after the insurance company has been taken over by the Superintendent of Insurance for liquidation, cannot be offset at their full cash value against the mortgage indebtedness of such church to the insurance company.