

6573

DOMESTIC FOWLS OR POULTRY — WORDS “HAVING AN AGGREGATE VALUE OF TEN DOLLARS OR MORE” AS USED IN SECTION 5840 G. C. APPLY ONLY TO CLAIMS FOR DAMAGE TO DOMESTIC FOWLS OR POULTRY.

SYLLABUS:

The words “having an aggregate value of ten dollars or more” as used in Section 5840, General Code, apply only to claims for damage to domestic fowls or poultry.

Columbus, Ohio, December 31, 1943.

Bureau of Inspection and Supervision of Public Offices,
Columbus, Ohio.

Gentlemen:

I have your recent letter, the text of which is as follows:

“Sections 5840 et seq., General Code, have been amended so as to make provision for the payment of loss or damage to domestic fowls and poultry which have been injured or killed by dogs.

May we respectfully ask your opinion on whether said amendments prohibit the county commissioners from paying a sheep or other animal claim where the damage is less than ten dollars, or whether the phrase ‘having an aggregate value of ten dollars or more’ applies only to claims for damages to domestic fowls and poultry.”

Section 5840, General Code, about which you inquire, as amended by House Bill No. 171 of the 95th General Assembly, is as follows:

“Any owner of horses, sheep, cattle, swine, mules, goats and domestic fowls or poultry having an aggregate value of ten dollars or more which have been injured or killed by a dog not belonging to him or harbored on his premises, in order to be entitled to enter a claim for damages must notify a county commissioner in person or by registered mail within forty-eight hours after such loss or injury has been discovered, and such commissioner shall immediately notify the dog warden or other enforcing officer of such loss or injury, whose duty it shall be to have the facts of such loss or injury investigated at once. The owner of such horses, sheep, cattle, swine, mules, goats, or domestic fowls or poultry having a value of ten dollars or more, may present to the

township trustees of the township in which such loss or injury occurred, within sixty days a detailed statement of such loss or injury done, supported by his affidavit that it is a true account of such loss or injury. A duplicate of such statement shall be presented to the county commissioners of the county in which such loss or injury occurred. If such statements are not filed within sixty days after the discovery of such loss and injury no compensation shall be made therefor. Such statement shall set forth the kind, grade, quality, and value of the horses, sheep, cattle, swine, mules, goats *and domestic fowls or poultry having a value of ten dollars or more* so killed or injured, and the nature and amount of the loss or injury complained of, the place where such loss or injury occurred, and all other facts in possession of the claimant which would enable the dog warden to fix the responsibility for such loss or injury. Statements of the nature and amount of the loss or injury complained of shall be supported by the testimony of at least two freeholders who viewed the results of the killing or injury and who can testify thereto."

In the above quotation of Section 5840, I have emphasized the changes made by House Bill No. 171.

Succeeding sections 5841, 5842, 5843, 5845, 5848 and 5849, which were likewise amended by House Bill No. 171, and which deal with the procedure whereby compensation is received for damage to domestic animals, all carry in them the words "Horses, sheep, cattle, swine, mules, goats and domestic fowls or poultry having a value of ten dollars or more", except that on two occasions, once in Section 5840, General Code, and again in Section 5841, General Code, the word "or" is used in place of the word "and" between the words "goats" and "domestic fowls." Those words were all added to those sections by House Bill No. 171, and it should be especially noted the addition of those words was the only change effected by House Bill 171.

First considering the statute in its present form and having no regard to the manner of its amendment, it is my opinion that it can be shown that the words "having an aggregate value of ten dollars or more" relate to and modify only the preceding words "domestic fowls or poultry" by application of the so-called last antecedent rule of statutory construction. The rule is well stated in the case of *Stevens v. Illinois Central Railway*, 306 Ill., 370, 373; 137 N. E. 859, 961:

"This construction accords well with the well recognized rule of statutory construction known as the doctrine of the 'last antecedent clause'. This canon of construction is, that relative or qualifying words or phrases are to be applied to the words or phrases immediately preceding, and as not extending to or including other words, phrases or clauses more remote unless such extension or inclusion is clearly required by the intent and meaning of the context or disclosed by an examination of the entire act."

The fact that the amendment brought about by House Bill No. 171 added to the statute the words "domestic fowls or poultry," and also the qualifying words "having an aggregate value of ten dollars or more", confirms the conclusion that the latter words relate only to the words "domestic fowls or poultry", and in addition point out the peculiar applicability here of the so-called last antecedent rule mentioned above.

There remains to be mentioned however a strong indication of the correctness of the opinion here expressed. It is a general rule of statutory construction that the title to a statute may be resorted to as an aid in the construction of a statute. See 37 O. Jur., 681. The title to House Bill No. 171 is as follows :

"To amend sections 5840, 5841, 5842, 5843, 5845, 5848 and 5849 of the General Code, relative to payments out of the dog and kennel fund for injuries to domestic fowls or poultry by dogs."

The title above shows without doubt that the only purpose of the amendment of Section 5840, General Code, was to include poultry and fowls in the list of domestic animals for which compensation is paid in the event of damage by dogs. Since the words used to effect the amendment are the words about which you inquire, it would seem to follow that those words relate only to that purpose.

You are therefore advised that it is my opinion that the words "having an aggregate value of ten dollars or more" as used in Section 5840, General Code, apply only to claims for damage to domestic fowls or poultry.

Respectfully,

THOMAS J. HERBERT,
Attorney General.