

examination and inspection of the carcasses and parts thereof of all cattle, sheep, swine, and goats to be prepared for human consumption at any slaughtering, meat-canning, salting, packing, rendering, or similar establishment in any State, Territory, or the District of Columbia for transportation or sale as articles of interstate or foreign commerce."

From the above statutes it would therefore appear that the inspection of animals and meats at slaughter houses by the federal government is for the purpose of preventing interstate traffic in diseased or unwholesome meats, and consequently there could be no inspection of such slaughtering establishments by federal authorities unless the scope of the business of such establishments embraces the slaughtering of animals, the meat of which is to be shipped without the state.

It is therefore my opinion that:

1. A city operating without a city charter may, by ordinance of the city council, require the inspection of animals to be slaughtered for food, and for the inspection of the carcasses thereof.

2. Such requirement may also be by regulation of the board of health of such city in the absence of or independent of any ordinance of the city council.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

3894.

BOARD OF HEALTH—MAY DECLARE QUARANTINE OF ALL DOGS NOT IMMUNIZED AGAINST RABIES WHEN.

*SYLLABUS:*

*A board of health may under the provisions of sections 1261-42, and 5652-16, General Code, declare a quarantine of all dogs which have not been immunized against rabies, within the territory under its jurisdiction or part thereof, whenever in its judgment rabies shall be declared to be prevalent and such step is deemed necessary for the prevention or restriction of disease.*

COLUMBUS, OHIO, February 1, 1935.

HON. EMORY F. SMITH, *Prosecuting Attorney, Portsmouth, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication which reads as follows:

"For the past several years we have had an epidemic of rabies among dogs and other animals in this county which has required the county to spend several thousand dollars each year in the purchase and administration of rabies serum. The Board of Health of the general county district desires to place a quarantine for a period of six months or a year on all dogs not immunized against rabies in the district over which it has jurisdiction. Can they do so? I would like to have your official opinion as to whether they have authority to do so."

Section 5652-16 of the General Code reads as follows:

"Whenever in the judgment of any city or general health district board of health, or person or persons performing the duties of a board of health, rabies shall be declared to be prevalent, such board of health, or person or persons performing the duties of such board of health, shall declare a quarantine of all dogs in such health district, or part thereof. The quarantine so declared shall consist of the confinement of any dog or dogs on the premises of the owner or in a suitable pound or kennel if a pound or kennel is provided by the city or county; provided, a dog may be permitted to leave the premises of the owner if under leash or under the control of the owner or other responsible person. The quarantine order herein authorized shall be considered an emergency and need not be published.

When a quarantine of dogs has been declared in any health district, or part thereof, it shall be the duty of the dog warden and all other persons having the authority of police officers to assist the health authorities in enforcing the provisions of the quarantine order.

The penalty for the violation of the rabies quarantine order shall be the same as provided for the violation of other orders or regulations of the board of health."

Section 1237 of the General Code, which sets forth the powers of the State Board of Health, reads in part as follows:

"The state board of health shall have supervision of all matters relating to the preservation of the life and health of the people and have supreme authority in matters of quarantine, which it may declare and enforce, when none exists, and modify, relax or abolish, when it has been established."

In the case of *Ex Parte Mabel Mason*, 22 O. N. P. (N. S.), page 21, it is stated:

"Section 1237 heretofore referred to which fixes the general powers and duties of the state board of health gives such board and its successor, in matters pertaining to the prevention of the spread of contagious and infectious diseases and quarantine, as broad powers as could be well granted. While the term with reference to quarantine 'supreme authority' is used, that must be understood as meaning supreme legal discretion or authority and not arbitrary power."

Likewise, while the terms of section 5652-16, supra, grant to city and district boards of health power to declare a quarantine of dogs in their respective districts, yet such boards are not by the terms of said statute authorized to act in an arbitrary or oppressive manner in exercising such powers.

Section 1261-42, General Code, is pertinent to your inquiry, and provides as follows:

"The board of health of a general health district may make such orders and regulations as it deems necessary for its own government, for the public health, the prevention or restriction of disease, and the prevention, abatement or suppression of nuisances. All orders and regulations not for the government of the board, but intended for the general public, shall be adopted, recorded and certified as are ordinances of municipalities and record thereof shall be given in all courts of the state the same force and effect as is given such ordinances,

but the advertisements of such orders and regulations shall be by publication in one newspaper published and of general circulation within the general health district. Publication shall be made once a week for two consecutive weeks and such orders and regulations shall take effect and be in force ten days from date of first publication. Provided, however, that in cases of emergency caused by epidemics of contagious or infectious diseases, or conditions or events endangering the public health, such boards may declare such orders and regulations to be emergency measures, and such orders and regulations shall become immediately effective without such advertising, recording and certifying."

The foregoing section was under consideration in an opinion of this office, appearing in the Opinions of the Attorney General for 1928, Volume 3, page 1748, the third branch of the syllabus of which reads as follows:

"A district board of health, if it deems it necessary for the public health, or the prevention or restriction of disease, or the prevention, abatement or suppression of a nuisance may order the vaccination of all dogs within such district with anti-rabic serum."

In the body of the opinion, after quoting section 5652-16, *supra*, the then Attorney General said at page 1752:

"I am of the opinion that the provisions of this section are not exclusive in so far as determining or restricting the power of a board of health. If the exigencies of the situation, in the judgment of the board of health, require other or different precautions to safeguard the health of the citizens of the community, I am of the opinion that such board may enact any ordinance which is reasonably commensurate with the conditions then prevailing."

In view of the foregoing, if the board of health has power to require the immunization of all dogs against rabies, it follows that such board has authority to require the quarantine of all dogs, which have not been so immunized, in the district or part thereof under its jurisdiction, when a prevalence of rabies has been declared therein.

Your question of whether or not such quarantine may be declared for a period of six months or a year, is answered by the plain language of the statute which conveys a clear and definite meaning, to-wit, that a city or general health district board of health may quarantine all dogs when in its judgment rabies are declared prevalent. In other words, any such board of health may, when in its judgment rabies are declared prevalent, declare a quarantine of all dogs not immunized until such time when such epidemic no longer exists, at which time such quarantine should be lifted.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*