

3075.

TUBERCULIN TESTS—CATTLE—NECESSARY QUALIFICATIONS OF PERSONS MAKING SAID TESTS.

SYLLABUS:

A person is not permitted by law to administer tuberculin to cattle in Ohio unless he is a graduate of a veterinary college recognized by the State Board of Veterinary Examiners, has received a certificate from such board entitling him to engage in such practice, and has received the approval of the State Bureau of Live Stock Industry of Ohio, and the United States Bureau of Animal Industry.

COLUMBUS, OHIO, December 28, 1928.

HON. EARL D. PARKER, *Prosecuting Attorney, Waverly, Ohio.*

DEAR SIR:—I am in receipt of your recent communication which reads as follows:

"In 1910 Dr. -----, Piketon, Ohio, was admitted to the practice of Veterinary Medicine and Surgery and received his diploma and has engaged in the active practice of his profession up until the present time.

In 1921 Section 1114-1, General Code, was enacted. Mr. ----- is not a *graduate* veterinarian. Is he qualified to administer tuberculin under the above section?"

There can be no doubt as to the meaning of the term "graduate veterinarian" used in this section. Sections 1177-16 to 1177-16h inclusive, General Code, found under the same title, provide for the appointment of a State Board of Veterinary Examiners and the licensing of persons for the practice of veterinary medicine, surgery and dentistry.

Section 1177-16b, General Code, reads as follows:

"An applicant for such examination shall be a graduate of a veterinary college recognized by the state board of veterinary examiners before taking the examination. He shall present himself at the office of the secretary of the board at the time when the examination is to be held, and pay ten dollars for each examination. Such fee shall accompany his written application and be paid to the secretary of the board previous to such examination. And no person shall practice veterinary medicine and surgery in this state, without first having obtained from the state board of veterinary examiners a certificate entitling him to engage in such practice. Provided, that the provisions of this section shall not be deemed to apply to those persons who are duly licensed under the laws of this state to practice veterinary medicine or surgery and the various branches thereof at the time this act (G. C. 1177-16 to 1177-16h) becomes operative, it being the intention hereof to allow such license holders to continue in the practice of their profession."

A board of veterinary examiners was first provided for by an act passed in 1894, found in 91 O. L. 392, which was placed under the chapter "physicians, dentists, druggists and others." The state board of veterinary examiners could accept a properly issued diploma in place of an examination. A diploma could not be accepted unless it had been issued by a reputable veterinary school or college that required a course of study and gave instruction in all branches of veterinary science.

It will be observed that, in line with the state policy in regard to all other professions and branches, the provisions regulating the practice of this profession have been made more exacting, so that candidates for admission are now required to have both diplomas of graduation and certificates of examination. However, Section 1177-16b, supra, permits the issuance of licenses to and practice by, holders of licenses secured prior to the requirement of graduation in all general respects.

Section 1114-1, General Code, provides as follows :

It shall be unlawful for any person other than a licensed graduate veterinarian who is approved by the state bureau of live stock industry and United States bureau of animal industry to administer tuberculin to cattle in Ohio."

However, Section 1114-1, General Code, above quoted affords an exception to said Section 1177-16b, General Code, in the case of administering tuberculin.

The licensing of attorneys, physicians, dentists, pharmacists and other classes of persons has been so repeatedly upheld as a proper exercise of police power as to render unnecessary the citation of any authorities in support of the validity of the above sections. In considering whether or not the requirement of Section 1114-1, General Code, constitutes a reasonable exercise of such police power, we are impressed with the very great and growing importance of the movement for the eradication of tuberculosis in cattle. The work, in Ohio alone, has reached very considerable proportions. I am informed that as many as 6,000 tuberculin tests per month have been applied under the supervision of the State Board of Agriculture and throughout the United States some 40,000,000 cases have been tested prior to this time. In view of the nature of the tests, and the fact that by the terms of the law the results of these tests are deemed to be conclusive for the purpose of the quarantine and destruction of the animals, we cannot but be impressed by the importance of having the tests conducted with all possible care and by experienced and competent persons. The Legislature has further seen fit to extend similar care and protection around the preparation and disposing of the tuberculin substance used in the tests.

Section 1114-2, General Code, provides as follows :

"It shall be unlawful to sell, offer for sale or give away any tuberculin in Ohio without a permit from the state veterinarian. All persons, firms or corporations desiring to introduce or distribute tuberculin in Ohio must make written application to the state veterinarian for a permit to do so. Such permits shall be issued only on the condition that each sale of tuberculin must be made to veterinarians approved by the state and a monthly report of all such sales showing date of each sale, amount of tuberculin and name and address of the veterinarian receiving the same shall be made to the state veterinarian on forms provided for that purpose. Failure on the part of any person, firm or corporation to comply with the conditions under which the permit is issued shall be considered sufficient cause for revoking the permit."

And Section 1114-3, General Code, further provides :

"It shall be deemed unlawful for any person other than a veterinarian approved by the state or a person, firm or corporation having a permit from the state veterinarian, to have tuberculin in his or her possession."

From the foregoing, it appears clear that the Legislature has expressed a very definite intention that no person shall be employed in connection with the work of administering tuberculin in Ohio unless he is a graduate of a properly recognized veterinarian college, has received a certificate from the Ohio State Board of Veterinary Examiners entitling him to engage in such practice, and has also been approved by the State Bureau of Live Stock Industry of Ohio, and the United States Bureau of Animal Industry, in other respects.

Specifically answering your question, you are advised that the person mentioned in your letter, under the circumstances set forth therein, is not qualified to administer tuberculin in the State of Ohio.

Respectfully,
EDWARD C. TURNER,
Attorney General.

3076.

VILLAGE COUNCIL—AUTHORITY TO PROVIDE BY ORDINANCE SALARY OF STREET COMMISSIONER—CAN NOT LEGALLY BE SUCH SUM PER HOUR AS COUNCIL MAY FROM TIME TO TIME DIRECT—SALARY OF VILLAGE CLERK.

SYLLABUS:

1. *An ordinance, fixing the salary of the village clerk, which provides that it will allow additional undesignated sums for "extra services in connection with street improvements, etc." not therein specified, is insufficient to authorize additional compensation without further action of council more definitely specifying the services to be performed and fixing the compensation therefor.*

2. *The council of a village may not provide by ordinance that the compensation to be paid the street commission shall be such sum per hour, as council may from time to time fix for services rendered.*

COLUMBUS, OHIO, December 29, 1928.

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

GENTLEMEN:—I am in receipt of your recent communication requesting my opinion, which reads as follows:

"Section 4219, G. C., provides that the Council of a village shall fix the compensation of all officers, employes, etc.

Question No. 1: May Council fix the salary of a village clerk at a specified amount per year and provide in the ordinance that council will allow additional sums for extra services in connection with street improvements, etc.?

Question No. 2: May the Council of a village provide, by ordinance, that the compensation to be paid the Street Commission shall be such sum per hour, as council may from time to time fix for services rendered?"

Question No. 1. It appears from the statement of this question in your letter that the proposed ordinance does not specify the amount of the "additional sums", or a proposed rate of compensation for extra services. Neither does it appear that