



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Roy Loventhal, Chairman
Livestock Sanitary Commission of Texas
Lufkin, Texas

Dear Sir:

Opinion No. 0-3528

Re: Does the Tick Eradication Law permit the Chairman of the Livestock Sanitary Commission to act without the consent of the other two members of the Board.

Your request to this department for an opinion has been received and considered. We quote from the request:

"I will appreciate it very much if you will render to me at my address, Lufkin, Texas, your opinion on Sections 1, 10, 11, and 33 of House Bill No. 77, Acts of 41st Legislature, First Called Session, passed as Chapter No. 53, 1929.

"The question I am most interested in is whether or not the wording of the present Tick Eradication Law permits the Chairman of the Livestock Sanitary Commission of Texas to act without the consent of the other two members of the Board in matters of importance to the department."

The so-called "Tick Eradication Law" was passed by the Acts of the 41st Legislature, First Called Session, 1929, as House Bill No. 77, Chapter 53, page 128. Said Act is carried as Article 1525-c of Vernon's Penal Code of Texas. Said Act consists of forty separate sections.

We have carefully examined the caption of said House Bill No. 77, which we do not quote here because of its length,

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to determine the proper legal scope of said Act. Said caption of said Act does not in our opinion authorize and support, within its proper and legal scope, the purported powers, attempted to be given by the specific sections of the Act referred to in your request, to the Chairman of the Livestock Sanitary Commission, acting individually, without the consent and concurrence of a majority of said Commission.

In 39 Texas Jurisprudence, pages 84 and 85, this pertinent rule is given:

"A provision or section of a statute is void if its purpose or substance is not expressed in the caption of the Act, but this does not invalidate other provisions of sections unless the latter are so connected with or dependent upon the former in subject matter, purpose or meaning that they cannot stand alone."

We believe, that the above rule is applicable to the proposition presented in your request since the purpose or intention to confer concurrent and equal powers upon the Chairman of the Commission is nowhere expressed nor implied in the terms of the caption of the Act. Therefore, we believe that the provisions of Sections 1, 10, 11 and 33 of said H. B. 77, which attempt to confer equal and concurrent powers of the Livestock Sanitary Commission upon the Chairman, acting individually and without the consent or approval of the majority of the Livestock Sanitary Commission, are void and of no force and effect. We believe, however, that under the rule above stated, and for the additional reason that Section 39 of said Act provides that if any section of the Act shall be declared unconstitutional the remainder thereof shall not be affected thereby, that the remainder of the Act is not, for that reason, invalidated.

We do believe the Act gives the Chairman of the Livestock Sanitary Commission the general and ordinary powers of a Chairman of an administrative board. We think this power includes the power to call meetings of the Livestock Sanitary Commission, preside over the same and to vote as a member of the Commission. Any other powers could only be lawfully exercised by the Chairman, upon authority from a majority of the

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Commission as conferred and expressed by a resolution or an order duly passed and approved by a majority of the Commission.

We trust that in this manner we have fully answered your inquiry.

APPROVED JUN 20, 1941

Wm. H. Bell

WILLIAM H. BELL
ATTORNEY GENERAL

Very truly yours

ATTORNEY GENERAL OF TEXAS

Harold McCracken

Harold McCracken
Assistant

HM:db

