Opinion No. 249.

Livestock Markets—Bonds—Period of Liability—Withdrawal of Surety.

HELD: 1. A surety on a bond furnished by a livestock operator, under the provisions of Chapter 52, Laws of 1937, may not withdraw from the bond without the consent of the principal and obligee.

2. The liability of a surety on a bond furnished by a livestock operator does not continue beyond the period of the license of the livestock operator.

February 23, 1938.

Mr. Paul Raftery
Secretary, Montana Livestock
   Commission
The Capitol

Dear Mr. Raftery:

You have requested my opinion on the following questions:

1. May a surety withdraw from the bond of a livestock market operator before the expiration of the license?

2. Does the liability of a surety extend beyond the period of the license?

Sections 500 and 501, R. C. M. 1935, provide for the withdrawal of surety on official bonds and also prescribe the procedure. By Section 503 such withdrawal may be effected by sureties on bonds of receivers, executors, administrators and guardians. Chapter 52, Laws of 1937, relating to the licensing and bonding of livestock markets, does not provide for the withdrawal of sureties on bonds given as a condition precedent to the issuance of the license. In the absence of statute providing for withdrawal of sureties, it is my opinion that such withdrawal may only be accomplished with the consent of the principal and the obligee. See 50 C. J., pp. 94-95, Sections 152 and 153.

Since the license issued to the principal was conditioned upon the furnishing of the bond, and the license was issued for a definite period, to-wit: Beginning May 1, 1937, and ending May 1, 1938, as long as the license continues the livestock commission could not consent to the withdrawal of the surety until a new bond has been furnished.

In my opinion the term of the bond would not continue beyond the period of the license, since the purpose of the bond is to protect persons dealing with the livestock operator and such operator can only operate as long as he has a license.