

No. 178

**BULLS—PURE BRED BULLS—LIVESTOCK—
FOREST RESERVE**

Held: No bulls except purebred bulls may be turned on to the forest reserve and these only between July 1st and December 31st, of each year, regardless of the ownership of the bulls.

July 16, 1941.

Mr. Lyman Brewster
Member, Livestock Commission
Birney, Montana

Dear Mr. Brewster:

You have requested the opinion of this office regarding the following factual situation:

"For the past several years, by way of resolution, the members of the West Odell Livestock Association have voted, and agreed, to turn out their bulls on the range between the 15th and 20th of June. The range consists of a portion of the Custer National Forest. The Association is composed of all the permittees who graze cattle on that particular area.

"As in the past, such a resolution was acted upon recently and passed by majority vote. At a subsequent meeting the question was raised again, and considerable discussion occurred. One of the permittees contends that Section 3403 of the Revised Codes of Montana, 1921, as amended by Section one, Chapter 3 of the Laws of 1925, is operative and, therefore, it would be a violation of that Section for the permittees to turn bulls on the Forest Reserve on or before July 1st, and that the action of the West Odell Livestock Association cannot in any way impair, or modify, that law. Argument on the other side was to the effect they were not aware of the existence of such law; and, even had they been, they would not consider it applicable to this situation. They thought there must be some other law in the statutes which might possibly make an exception whereby an association could, by its own action, provide for an earlier turning out date than that specified in the statute."

Section 3403, Revised Codes of Montana, 1935, provides:

"Section 3403. Only pure-bred bulls to run at large—limitation on time. It shall be unlawful for any person or persons, firm, company, or corporation to turn upon, or allow to run at large on the public highways, open range, or national forest reserve within the state of Montana any bull other than a pure-bred bull of a recognized beef type; and no bull shall be turned upon, or allowed to run at large upon any such public highways, open range or national forest reserve between January 1st and July 1st of each and every year."

Section 3405, Revised Codes of Montana, 1935, provides:

"Section 3405. Penalty for violation of act. Any person or persons, firm or company, or corporation violating any of the provisions of

this act shall be guilty of a misdemeanor and punishable by a fine of not less than twenty-five dollars nor more than two hundred fifty dollars.”

It is my opinion that, by the provisions of Section 3403, supra, no one—either individual or association—can turn upon or allow to run at large on the public highways, open range or national forest reserve any bull other than a purebred bull, and then only between the dates of July 1st and December 31st of each year. Any violation would be a misdemeanor by the terms of Section 3405, supra, punishable by a fine as specified.

Sincerely yours,

JOHN W. BONNER
Attorney General