

Inspection of livestock is governed by Section 1 of Chapter 59, which provides in the first paragraph thereof:

"Except as in this act otherwise provided, it shall be unlawful to remove or cause to be removed from any county in this state any cow, ox, bull, stag, calf, steer, heifer, horse mule, mare, colt, foal or filly, by means of any railroad car, motor vehicle, boat or any manner whatsoever unless such animal shall have been inspected for brands by a state stock inspector or deputy state stock inspector and certificate of such inspection shall have been issued in connection with and for the purpose of such transportation or removal as in this act provided."

Obviously, the portion of the act above quoted applies to inspections of livestock which is about to leave any county, whether it is destined to go just to another county or to leave the state as well. The language quoted is clear and specific and, hence, needs no interpretation or construction. The obvious purpose is to determine ownership of the livestock before it leaves the county.

The second paragraph of Section 1 of Chapter 59 provides:

"It shall be unlawful to sell or offer for sale any animal referred to originating within any county in the State of Montana, in which a licensed public market is maintained until such animal has been inspected for marks and brands by a state stock inspector, as in this act provided."

There the language employed by the legislative assembly is not of itself so clear, specific, or unambiguous as that used in the first paragraph. While the first paragraph concerns itself with the removal of livestock from a county, the second paragraph above quoted deals with selling or offering to sell animals originating within a county in which a licensed public market is maintained. Thus the second paragraph applies only to counties wherein licensed public markets are maintained. Selling or offering to sell livestock in such counties—if the paragraph is read literally—is conditioned by an inspection for marks and brands; but a careful scrutiny of the remainder of the act shows no provision applying to the

#### Opinion No. 74.

#### Livestock Commission—Inspection and Fees—Fees, livestock.

Held: Chapter 59 of the Laws of 1943 interpreted with regard to inspection of livestock and fees therefor.

June 21, 1943.

Mr. Paul Raftery, Secretary  
Montana Livestock Commission  
State Capitol  
Helena, Montana

Dear Mr. Raftery:

You have inquired of this office regarding the inspections of livestock and fees therefor authorized by Chapter 59, Laws of 1943.

counties wherein no licensed public markets are maintained. Only six of Montana's fifty-six counties have licensed public markets: Cascade, Custer, Gallatin, Missoula, Silver Bow and Yellowstone.

In the construction of a statute, the intention of the legislature is to be pursued, if possible. (State ex rel. Boone v. Tullock, 72 Mont. 482, 487, 234 Pac. 277, 279.)

That the legislative assembly did not intend that, in the six counties enumerated above, every sale or offer of sale of livestock must be preceded by an inspection for marks and brands, while the other fifty counties of the state should be exempted from any such requirement, is indicated by an examination of Section 4 of Chapter 59, Laws of 1943, wherein the legislature provided only two classes of inspection fees: one for the service of inspection before removal from the county and one for inspection at the licensed public market.

Thus, reading the second paragraph of Section 1 in connection with Section 4 of Chapter 59, I am of the opinion it was the legislative intention it shall be unlawful to sell or offer for sale at a licensed public market any animal covered by the act originating within any county in which a licensed public market is maintained until such animal has been inspected for marks and brands by a state stock inspector.

The third paragraph of Section 1 of Chapter 59 provides:

"It shall be unlawful to remove or cause to be removed any such animal referred to from the premises of any public market in this state unless such animal shall have been inspected for marks and brands by a state stock inspector and an inspection certificate for such animal shall have been issued in connection with and for the purpose of such removal from the premises of such public market, as in this act provided."

The inspection provided here applies to removal from the premises of any public market—in other words, it is a safeguard to the purchaser who thus acquires an inspection certificate as evidence of ownership. Plainly, the inspection applies to all animals covered by the act leaving a public market.

At this point it should be noted the provisions of Section 1 of Chapter 59 above quoted do not apply, according

to the fourth paragraph of the section, in five enumerated instances: (1) to animals transported through the state in interstate commerce without leaving the custody of the carrier; (2) to animals transported by railroad consigned to and which, without leaving the custody of the carrier, do reach a market at which one of your stock inspectors is maintained, and for which animal a loading tally has been filed by the shipper with the carrier as provided by law; (3) to animals driven from one county to another by the owner for pasturing, nor to animals driven from one county to another by the owner which such animals are used in the ordinary conduct of the owner's business and such person has owned them for at least three months; (4) to animals driven from one county to another adjoining within the state for shipment by railroad or delivery to a licensed public market by any person who has been the owner of such animals for three months; (5) where removal or shipment of such animals shall have been authorized by the livestock commission or by a state stock inspector, subject to brand inspection at a point designated by the livestock commission or a state stock inspector.

Section 4 of Chapter 59 is concerned with the fees to be exacted for inspection of livestock. The first sentence of Section 4 applies, by its own terms, only to inspection before removal from the county, which may be made by either a state stock inspector or a deputy state stock inspector. The person for whom inspection is made, of course, is the owner of the livestock who proposes to remove it from the county.

The second sentence of Section 4 of Chapter 59 provides the fee for inspection at a licensed public market which shall be made, under the terms of the act by a state stock inspector. The fee therein provided shall apply to the seller who sells or offers to sell at a licensed public market any animal originating within any county in which a licensed public market is maintained, and to any person removing or causing to be removed any animal referred to in the act from the premises of any public market.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General