

Butcher License, Selling His Own Cattle.

A person has a right to kill and sell cattle raised by himself without a license. However, he is limited to products raised by himself. If he engaged in the business of buying cattle for the purpose of killing the same and selling the meat, he must procure a regular butchers license. He may peddle the beef from cattle raised by himself throughout his county without procuring a peddler's license.

Helena, Mont., Nov. 21, 1905.

J. A. Matthews, Esq., County Attorney, Townsend, Montana.

Dear Sir:—Your letter of the 20th instant received, in which you submit another question relating to the license of butchers. In the opinion given to you on November 18, relating to the licenses of butchers, this question was not presented and we there held that where a man was regularly engaged in the butchers business that his place of business could be at his ranch, and that his ranch would then be his fixed place of business and that he could deliver his meat in wagons without being subject to the peddler's license. This opinion was given upon the theory

that the man was regularly engaged in the butcher business the same as a butcher in town. The question now submitted is as follows: "Has a person, under the law, the right to kill and sell cattle raised by himself without a license?"

You are advised that he has this right. A person has the right to sell stock raised by himself, either alive or dead, without procuring a license. However, in such a case he is limited to the sale of products raised by himself, and if he engages in the business of buying cattle for the purpose of killing, and holds himself out as dealing in the general business of a butcher, then he would be liable for the payment of a butcher's license. But where he does not hold himself out to the public as doing a general butcher's business, and simply kills an occasional animal raised by himself and sells the whole or a part of it, he is not engaged in the general business of a butcher, nor would he be required to pay a peddler's license for selling and distributing the beef from animals raised by him, for section 4066, Political Code, as amended by chapter 84, laws 1905, which requires a peddler's license, contains the following exception: "but the peddler, hawker or traveling merchant who carries for sale and sells only agricultural products raised by himself, or articles manufactured by himself, is not included in the provisions of this section." Agricultural products, in the broad sense in which it is used in this section, would include all kinds of products raised upon a farm, and which would necessarily include hogs, sheep and cattle.

I also enclose you copy of an opinion given by this office on December 30, 1903, to Dr. M. E. Knowles, which has more or less bearing upon this subject.

Inasmuch as we answered your question relating to the payment of taxes on separate parcels of real estate over the telephone, we will not send you a written opinion upon that unless you make further request for the same.

Respectfully submitted,

ALBERT J. GALEN,
Attorney General.