

Livestock on Public Range. Assessment, Situs of For.

Live stock running upon the public range should be assessed in the county of their accustomed range regardless of the permanent residence of the owner thereof. The fact that they are removed from their accustomed range for winter feeding or other purposes and are not returned until after the first Monday in March makes no difference so long as they are returned to their accustomed range when running at large.

Helena, Montana, May 8th, 1906.

Hon. J. E. Barbour, County Attorney, Big Timber, Montana.

Dear Sir: Your letter of the 3rd inst., requesting an opinion of this office, received; the facts stated being as follows:

"The Bloomington Land and Livestock Company, of Shamat, Montana, owns thirty-six sections of land in Sweetgrass County and considerable land in Meagher County. Their house barns, and winter quarters are in Meagher County, and about one-fourth mile from the Sweetgrass County line. Said company also owns several thousand head of cattle and a number of horses. That from sixty to seventy-five per cent of said livestock range in Sweetgrass County for a period of eight months during the spring, summer and fall. That during the remaining four months, said livestock are taken from the ranges in Sweetgrass County to their winter quarters in Meagher County for feeding during the winter and bad weather of that season, and that said stock, as soon as grass starts in the spring, are turned back upon the ranges of Sweetgrass County, there to remain until the bad weather of the succeeding winter, when they are again taken to said winter quarters as aforesaid."

Upon the above facts, the following question is asked:

"In which county, Sweetgrass or Meagher, are said livestock properly assessable?"

Section 3720 of the Pol. Code, and other sections relating to the as-

assessment of livestock, have been construed by the supreme court in the case of Flowerree Cattle Company v. Lewis and Clark County, 81 Pac. 398. According to the facts in that case, the court held that live stock must be assessed in the county of its accustomed range, and that when live stock were driven out of the county of their accustomed range into another county for the purpose of winter feeding, and were returned to the county of the accustomed range in the spring, that they must be assessed in the county of their accustomed range, notwithstanding the fact that they were not moved from the county where they were winter fed until after first Monday of March.

In the above case the following language was used:

"While in some instances the meaning of the lawmakers may be somewhat obscure, we are of the opinion that what was intended was this: "That all property shall be assessed in the county which is its home. If the property be real estate, its actual situs determines the question of its home. If personal property belonging to a merchant, the county where the merchant's business is conducted determines the home of such property; and likewise, if the property be range stock, its home is its accustomed range."

You are therefore advised that, whatever per cent of the livestock of the Bloomington Land and Livestock Company that has its accustomed range in Sweetgrass County when running at large, should be assessed in that county, notwithstanding the fact that such stock may have been on the first Monday in March in the County of Meagher, where it had been taken for the purpose of feeding and pasture during the winter.

It is the duty of the owner of livestock running at large to give to the assessor of each county in which such stock runs at large, the number of cattle or other stock owned by him which have their accustomed range in the county of such assessor, when running at large.

In the event that the owner of the stock refuses to give to the assessor a list of the stock running at large on their accustomed range, in his county, then the assessor has the authority to make an estimate of the number of such stock from whatever information he may have and assess the same as if it had been given to him by the owner.

Very truly yours,

ALBERT J. GALEN,

Attorney General.