

Live Stock, Situs Of for Purposes of Assessment and Taxation. Licenses, Revocation of Saloon.

1. The situs of live stock for purposes of assessment and taxation is the county where the property belongs.

2. It is not within the power of a board of county commissioners to revoke saloon licenses issued for the conduct of retail saloon dealer's business in a town, city or camp having a population of more than one hundred.

Helena, Montana, March 2, 1907.

F. P. Whicher, Esq.,
County Attorney,
Red Lodge, Montana.

Dear Sir:—

I am in receipt of your favor of the 26th ult. presenting certain question for a decision by this office. The first question you present is as to the situs of live stock for purposes of assessment and taxation, and in presenting the matter, in substance you state:

Is not the decision of this office heretofore rendered and of the Supreme Court in the case of Flowerree Cattle Co. v. Lewis and Clark County distinguishable in a case where sheep are brought from an adjoining county and it is the intention of the owners to trail them back in the Spring instead of shipping them.

In answer to this question I will say that this identical question was involved in the decision of the Flowrree case (81 Pac. 398). Applying that case, the situs of such stock for purpose of assessment and taxation is as we have heretofore held, in the county where the property belongs. (See: Opinion Attorney General 1905-06, pages 235-272-332). It may be that stock will escape taxation in consequence of such ruling, but it is impossible for us to make a different holding in face of the Supreme Court decision above referred to.

The second question you present is whether or not the Board of County Commissioners have power and authority under any law existing in this State, to revoke saloon licenses where they have been issued for the conduct of retail liquor dealers business in a town, city or camp having a population of over one hundred.

The Board of County Commissioners has no such authority conferred upon them under the law as to a town, city or camp having a population of more than one hundred, and Subdivision 25 of Section 4230 of the Political Code cannot be construed to confer such authority upon them.

It is provided, however, by Sec. 4051 of the Pol. Code, that "the conviction of any person for a violation of the law in relation to gambling or the sale of intoxicating liquors, is a revocation of the license to such person." This section seems to be self-executing, and under its provisions, it would not be necessary for the commissioners to take any action to make the revocation of the license effective in such cases.

As to towns, cities or camps having a population of less than one hundred, however, the law has clothed the Board of County Commissioners with police authority by Chap. 71 Laws of 1905, whereby they may regulate and control saloons conducted in towns, cities or camps having a population of less than one hundred and revoke licenses for the conduct of retail liquor dealers business in proper cases.

Very truly yours.

ALBERT J. GALEN,

Attorney General.