

Stallions, Transportation of Into State Without Required Certificate. Railroads, Transporting Stallions Without Proper Veterinary Certificate. Jurisdiction, What Courts Have.

Railroad companies, or other persons, transporting stallions into the state without proper state or federal certificate, may be prosecuted in any county through which such animal is transported, or in the county to which such animal is transported and delivered.

Sept. 7, 1910.

Mr. R. W. Clark,
Sec. Stallion Registration Board,
Bozeman, Mont.

Dear Sir:—

Your letter of September 1st, stating that a certain railroad in this state has violated Sec. 16 of Chap. 108, Laws of 1909, in shipping a car load of stallions into the state, and requesting my opinion as to which county has jurisdiction of the offense alleged to have been committed has been received. In reply I will say that Sec. 16 of the Act above referred to provides as follows:

"No railroad company, transportation company or common carrier shall transport into the State of Montana any stallion or jack unless accompanied by a state or federal veterinary certificate, as provided in Section 6 of this Act. Violation of this provision shall be punished as provided in Section 13 of this Act." Sec. 16, Art. III., of the constitution of Montana provides

That in all criminal prosecutions the accused shall have the right to a speedy trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

Sec. 9156, Revised Codes, provides that an indictment or information is sufficient if it can be understood therefrom:

"4. That the offense was committed at some place within the jurisdiction of the court, except where the act, though done without the local jurisdiction of the county is triable therein." Sec. 9011, Revised Codes, provides:

"When a public offense is committed in part in one county and in part in another, or the acts or effects thereof constituting or requisite to the consummation of the offense occurred in two or more counties, the jurisdiction is in either county." Sec. 9012, Revised Codes, provides:

"When a public offense is committed on the boundary of two or more counties the jurisdiction is in either county."

In my opinion, under the provisions of Sec. 16, Chap. 108, Laws of 1909, above referred to, the offense was committed as soon as the transportation company brought the stallions into the state, unless accompanied by a state or federal veterinary certificate, as provided in section 6 of the act, and the offender could be prosecuted in any county through which it might transport the animals, or in the county to which such animals were transported and delivered. I believe it would be advisable to prosecute the offender in the county in which the animals were unloaded or delivered, as, in my opinion, there can then be no question but what the district court of this county would have jurisdiction of the offense under the provisions of Sec. 9011 above quoted.

Yours very truly,

ALBERT J. GALEN,
Attorney General