

Cruelty, to Animals. Animals, Cruelty To. Bureau of Child and Animal Protection, Duties Of.

The bureau of child and animal protection cannot anticipate the violation of any of the penal statutes relative to cruelty

to animals and until a violation of one of its provisions has been had no action can be taken by that department.

April 14, 1911.

Hon. J. M. Kennedy, Sec'y.,
State Bureau Child and Animal Protection,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 13th inst., wherein you submit to this office a statement of facts concerning certain proposed events to be had at Billings on July 3rd, in connection with a celebration as follows:

"A man is to ride one horse a distance of from 90 to 94 miles and deliver a message at a point in Fergus county. The man is to start at Billings at sunrise and to deliver the message at or before sunset of the same day and ride the same distance the following day under the same conditions.

A woman courier is to leave Billings on horse back July 4th, at eight o'clock in the morning, go to the Hesper farm ten miles away and return to Billings and immediately proceed to Huntley Bridge, twelve miles away and return, making a total of 44 miles returning any time the same day.

Would these events be in violation of the law of Montana and would it be the duty of the humane officers of the state to prevent such contests?"

The mere advertisement of the proposed events would not be a violation of the law, neither would your department have any jurisdiction or authority to take steps to prevent such advertisement.

With reference to the events themselves, we cannot anticipate a violation of any criminal statute. The persons taking part in these events, we can safely presume understand the nature of the undertaking and the mettle and endurance of the animals to be entered in the events. It is not probable that the participants would undertake an exhibition which they would be unable to accomplish and which would consist of torture or cruelty to any animals. The provisions of Section 8774 and following of the Revised Codes of 1907 are intended to prevent cruelty to animals by providing a punishment for any person who is guilty of the actions enumerated in that chapter, and until a violation of one of its provisions has been had no action could be taken by your department as no offense has as yet been committed the persons taking part, however, in the proposed exhibitions would do so at their peril, and if from the facts as they appear at the time a violation of any of the sections above mentioned is had, it then becomes the duty of your department under the law to see that the offenders are punished.

Yours very truly,

ALBERT J. GALEN,
Attorney General.