

**Stock Inspectors, Inspecting Cattle Before Shipment. Sheriff, Inspecting Cattle Before Shipment. Estray, When Owner May Claim Money Received From Sale Of. State Board of Stock Commissioners, Authority to Employ Special Counsel.**

The board of stock commissioners may appoint such stock inspectors as are necessary for the protection of the livestock interests of the state, and, when regularly appointed, stock inspectors are permitted to inspect cattle shipments.

If a sheriff, as such, inspects cattle shipments without having been appointed stock inspector, he has no right to make the inspection, and, therefore, cannot present a bill for services performed in that respect.

If the amount claimed from the sale of an estray has not been in the hands of the board of stock commissioners for the period of two years after publication required by law, and the board is satisfied of the ownership of the animal as determined by the board of stock commissioners, then the owner is entitled to the proceeds from the sale of such estray.

The board of stock commissioners is by law empowered to employ counsel to assist in the prosecution of persons offending against the stock interests of the state, and when such board has authorized and approved the claim of such special counsel for his services, it is a proper charge against the stock fund.

Montana, April 17, 1911.

Mr. Percy Witmer,  
Clerk of the State Board of Examiners,  
Helena, Montana.

Dear Sir:

Replying to your communication of March 20th, inquiring as to the legality of certain claims presented to the state board of examiners for allowance, I will say:

The first is a claim for \$10.00, presented by John Killorn, sheriff of Park county, for inspecting cattle shipments. Section 1812, Revised Codes, provides that it is the duty of persons taking cattle from the state before removal to cause them to be inspected by a stock inspector of the state. Section 1796 provides that the board of stock commissioners may appoint such stock inspectors as are necessary for the protection of the live stock interests of the state but there is no provision in the code authorizing a sheriff as such to inspect cattle shipments, and unless Mr. Killorn, at the time he made the inspection, was a duly authorized and appointed stock inspector, he had no right to make the inspection, and therefore cannot present a bill for any services he may have performed in that respect,

The second claim referred to in your communication is one for \$35.02, for a certain estray cow, bearing an unrecorded brand, and alleged to belong to Mrs. Josh Jones, shipped September 2, 1908, by Bear Paw Pool from Havre, Montana, being report number 467. Under the provisions of senate bill No. 34, passed by the 12th legislative assembly of the state of Montana, all unclaimed money in the hands of the state board of stock commissioners received from the sale of estray cattle is required to be paid to the state treasurer, and the amount received from the sale of this particular estray was paid to the state treasurer January 4, 1911; and by the provisions of Sec. 7 of said bill, whenever it shall appear that the brand on an animal sold and reported as an estray, was unrecorded, or is blotched or dim, no person shall be paid therefor by the state treasurer until the board of stock commissioners shall first have investigated the case and determined ownership. For the purpose of considering such cases and determining ownership of such animals, the board of stock commissioners is required to meet in the city of Helena in the months of May and December of each year.

If the amount claimed has not been in the hands of the board of stock commissioners for a period of two years after the publication required by law, and the board is satisfied of the ownership of the animal as determined by the board of stock commissioners, then this claim should be paid.

The third claim is that of R. R. Purcell for a balance of \$244.80 for services performed for the state board of stock commissioners as special prosecutor. Under the provisions of section 1787, the board of stock commissioners is empowered to employ counsel to assist in the prosecution of persons offending against the stock interests of the state, and if the board has authorized and approved the bill rendered by Mr. Purcell, as appears to have been done from your communication, this is also a proper charge against the stock fund and should be paid.

Yours very truly,  
ALBERT J. GALEN,  
Attorney General.