

**Indian Reservation, County Jurisdiction Over. County,  
Jurisdiction Over Indian Reservation. Inspection, Of Horses  
Shipped From Indian Reservation. Horses, Inspection Of  
Shipped From Indian Reservation.**

The statute provides for the inspection of horses shipped from the state of Montana to points outside the state, such inspection to be conducted by the stock inspector or sheriff or deputy acting in his stead. This provision applies to shipment of horses from an Indian Reservation included within the county.

January 17th, 1911.

Chas. A. Taylor, Esq.,  
County Attorney,  
Billings, Mont.

Dear Sir:

I am in receipt of your letter of January 4th, 1911, wherein you ask my opinion as to whether the provisions of Section 1804 to 1811,

of the Revised Codes, relating to the inspection of horses to be shipped out of the state can be enforced upon the Crow Indian reservation.

The unusual press of business in this office incident to the meeting of the twelfth legislative assembly has made it impossible for me to earlier reply to your request.

You are advised that in my opinion the chapter referring to the inspection of horses by the stock inspector or sheriff before removal from the state, has full force and application in that portion of the Crow Indian reservation included in the county of Yellowstone as now existing.

Section 22, of the Revised Codes, provides that all legal process of the state, both civil and criminal, may be served upon persons and property found within any \* \* \* \* \* Indian reservation in all cases where the United States has not exclusive jurisdiction. The measure providing for the inspection of horses being shipped to points without the state is clearly an enactment under the police power of the state for the purpose of safeguarding the property rights of its citizens. The case of the State of Montana v. Tully, 31 Mont. 375, does not in my opinion go so far as to deprive the state of Montana of jurisdiction upon military or Indian reservations under statutes of this kind. It was held in the case last referred to, by a divided court, that a person could not be charged, tried and convicted of the crime of murder committed upon the Ft. Missoula Indian reservation. The defendant Tully being discharged under this decision was immediately rearrested and held for trial in the United States District Court. The judge of that court refused to be bound by the decision of the supreme court of Montana and held that Tully had been once in jeopardy and could not therefore be tried again for the same offense. The United States did not appeal from this decision of the district court.

In view of the fact that the Tully case was decided by a divided court, Mr. Justice Milburn dissenting, and in view of the decision of the United States District Court, I am inclined to believe that even if the Tully case were binding in this instance, which I do not think it is, it would be well to again present the question to the supreme court of Montana.

Yours very truly,

ALBERT J. GALEN,

Attorney General.