

Horses, Inspection Of. Inspection, of Horses. Sheriff, Power to Inspect Horses. Deputy Sheriff, Authority to Inspect Horses. Stock Inspection, By Sheriff.

The sheriff has authority to inspect horses intended to be shipped out of the state and this duty may be performed by a regular deputy sheriff but not by a constable.

February 20, 1912.

Mr. D. W. Raymond,
Sec'y, State Board of Stock Commissioners,
Helena, Montana.

Dear Sir:

I acknowledge receipt of your letter of the 14th inst., inclosing a letter from H. S. McGinley of Fort Benton relating to the authority of the sheriff and deputy sheriff to inspect horses prior to their removal from this state.

Sec. 1805, Revised Codes, confers authority upon the sheriff of the county equally with the stock inspector to make the inspection required by Sec. 1804. The deputy sheriff or under sheriff under the provisions of Sec. 350, Revised Codes, "possesses the powers and may perform the duty attached by law to the office of his principal" but this duty must be performed in the name and by the authority of the sheriff, and when the sheriff or any of his deputies perform the duties of stock inspector, the same description must be taken of the animals inspected

and the same reports made as are required to be taken and made by a stock inspector. However, such inspections if made by a deputy sheriff must be made by one regularly appointed and selected in the manner provided by law. A sheriff is not permitted to appoint a deputy merely for his own profit or for the profit of the deputy.

Sec. 8185 Revised Codes.

Hence, a special deputy cannot be appointed for the special purpose of making such inspection nor can a constable or anyone else make such inspection merely by styling himself a deputy sheriff. The law does not confer authority upon constables to make such inspections.

Yours very truly,

ALBERT J. GALEN,

Attorney General.