

**Cattle, Inspection Of. Sheriff, Right to Inspect Cattle.  
Horses, Inspection Of. Stock Inspector, Preference Over  
Sheriff in Inspection of Horses.**

Persons removing cattle from the state to a point where a stock inspector is not maintained must have the same inspected by a stock inspector before shipment.

A sheriff of a county, as such, has no authority to make the inspection.

Persons removing horses from the state must cause the same to be inspected by a stock inspector or sheriff of the county from which said stock is removed. There is no preference given by statute to a stock inspector over a sheriff, and either may make the inspection.

May 20, 1912.

Hon. D. W. Raymond,  
Sec. State Board of Stock Commissioners,  
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 10th inst., requesting my official opinion as to whether or not, (1) A sheriff of a county of this state has authority to inspect brands of cattle intended for shipment and (2), whether or not in the inspection of horses the stock inspector has preference over the sheriff.

In reply to your first question I will say that under the provisions of Secs. 1812 to 1814 inclusive, of the Revised Codes, it is made the duty of persons removing cattle from this state immediately before shipment to cause the same to be inspected by a stock inspector of the state, except that this inspection is not required where the cattle to be shipped are consigned to a point where the State Board of Stock Commissioners maintain a stock inspector. There is no provision for shipments of cattle to be inspected by a sheriff, and, therefore, the sheriff has no authority to inspect the same. However, under the provisions of Sec. 1796, et seq., the board of stock commissioners might appoint a sheriff as stock inspector, in which event he would have authority to inspect cattle shipments.

In answer to your second question I will say that under the provisions of Sec. 1804 et seq., Revised Codes, all persons removing horses from this state immediately before shipment must cause the same to be inspected by a stock inspector or sheriff of the county from which the stock is to be removed. There is no preference given by

these sections to a stock inspector over a sheriff, and either a stock inspector or a sheriff of the county has authority to make the inspection. However, if any controversy should arise between a stock inspector and a sheriff it would certainly be advisable for the sheriff to concede to the stock inspector the preference, as it is only incidentally the business of the sheriff to make such inspection, while the office of stock inspector is created directly for this purpose.

I herewith return the correspondence which you enclosed.

Yours very truly,

ALBERT J. GALEN,  
Attorney General.