

Quarantine Proclamation, Enforcing Provisions of. Sheriff, Expenses of in Enforcing Quarantine Proclamation. Expenses of Sheriff in Enforcing Quarantine Regulations, Payment of.

The expenses incurred by the sheriff in enforcing quarantine regulations under orders of the State Veterinarian are a proper charge against the county.

December 23, 1914.

Hon. Edward F. Fisher,
County Attorney,
Wibaux, Montana.

Dear Sir:

I have your communication under date December 19, submitting to me a letter addressed by you to the State Veterinarian concerning the liability of Wibaux County for expenses of the Sheriff in enforcing the quarantine proclamation made by the Governor to prevent the importation of cattle affected with the foot and mouth disease. You state that the bills for service and expenses incident to holding cattle and guarding the state line to prevent such cattle being driven across were filed with the Clerk of Wibaux County and disallowed by the Commissioners. The provisions of law which affect this question are those concerning the State Veterinarian, the Live Stock Sanitary Board, and Sheriffs.

Sec. 1888, Revised Codes of Montana of 1907, defining the powers and duties of the State Live Stock Sanitary Board gives it power "to determine and employ the most practical and efficient means to prevent, suppress, control and eradicate" certain specified diseases. Sec. 8847, Revised Codes of Montana of 1907, makes it a misdemeanor to import cattle from districts against which quarantine is declared. Every theory of law makes it the duty of a Sheriff to enforce the laws of the State, and Sec. 3024, Revised Codes of 1907 makes it his duty to execute process and orders issued by competent authority, the language being as follows:

"A sheriff or other ministerial officer is justified in the execution of and must execute all process and orders regular on their face and issued by competent authority whatever may be the defect in the proceedings upon which they were issued."

The State, as such, has no separate and distinct police organization of its own. The laws are enforced by the local authorities, and for this purpose are counties organized. It has often been held that counties are merely political subdivisions of the state founded for the more prompt and economical administration of the laws. One of the chief functions of counties is this very one. It is eminently proper, therefore, that the sheriffs of the various counties execute the orders of the state officers in the matter of quarantine, as well as in other infractions of the law.

The argument that border counties by such an interpretation are made watchdogs for the whole state can hardly be used as an argument against the duty of the county to enforce the state laws because, as indicated above, this is one of the primary purposes of their being.

Another answer to this argument, if one were needed, is that given in an early English case to the effect that

"That which inures to the benefit of the whole realm benefits him upon whom the burden falls along with all others."

For the reasons above indicated I am of the opinion that the expenses incurred by the Sheriff in enforcing the quarantine under orders of the State Veterinarian are a proper charge against the county.

Yours very truly,

D. M. KELLY,
Attorney General.