

Circuses—Menageries—Licenses—Exhibition.

The Al G. Barnes wild animal show is an exhibition of wild animals and therefore a menagerie within the meaning of section 2434 R. C. M. 1921, and must pay the county license therein provided.

E. G. Toomey, Esq.,
Attorney at Law,
Helena, Montana.

June 29, 1926.

My dear Mr. Toomey:

You have requested my opinion whether the Al G. Barnes Wild Animal Show will be required to pay a county license of \$125.00 per day, as required by section 2434 R. C. M. 1921, for a "circus" or "menagerie."

The answer to this question necessarily depends upon whether the show is a circus or a menagerie within the intent of the statute above mentioned. In your inquiry you state that this show has none of the characteristics of a circus and its exhibition is confined exclusively to acting through animals not otherwise on exhibition.

In the case of *State vs. Cody*, 120 S. W. 267 the supreme court of Texas had before it the question of whether a "Wild West Show" was a circus, and, because the show had none of the general characteristics of a circus, it was held that the same was not a circus within the meaning of the statute of that state, and for the reasons expressed by the court in that case I am of the opinion that the show in question is not a circus.

The question of whether or not it is a menagerie is somewhat more difficult of solution.

A "menagerie" is defined as follows:

"A collection of wild animals, especially when kept for exhibition." (Funk & Wagnalls New Standard Dictionary.)

"A place where animals are kept and trained, especially for exhibition; a collection of wild or foreign animals in cages or inclosures, especially one kept for exhibition, as with a circus." (Webster's New International Dictionary.)

Our statute does not define what shall be considered as a menagerie, and, as stated in the case of *State vs. Cody*, supra:

"It is a rule of law that when words have not a technical meaning or application, or the law in which they are employed does not define them, they shall be given their ordinary signification."

Applying this rule, and in view of the fact that the primary purpose of this wild animal show is the exhibition of wild animals, that the training of them so that they are able to perform is simply a means used to increase their exhibition value; that the patrons of the show go there for the purpose of viewing these wild animals, and that the

same are, whether in the show ring or in cages, exhibited to them, it is my opinion that the Al G. Barnes Wild Animal Show, as described by you, is a menagerie within the meaning of section 2434, supra, and must pay the county license as therein provided.

Very truly yours,

L. A. FOOT,
Attorney General.