

Migratory Livestock—Livestock—Sheep—Grazing—Taxation.

Sheep which are shipped into another than their home county for winter feeding and are fed in feed pens and also grazed upon lands leased by their owner are assessable as migratory stock under section 2069 R. C. M. 1921.

The word "feed" as used in the latter part of section 2069 is distinguishable from the words "pastured, ranged or grazed" and denotes the furnishing of hay, grain or other feed that has been severed from the soil.

February 9, 1928.

A. Whitney, Esq.,
County Assessor,
Big Timber, Montana.

My dear Mr. Whitney:

Your letter was received enclosing the opinion of your county attorney relative to the assessment of a certain band of sheep under section 2069 of the code. From the county attorney's letter I gather the following facts:

The sheep were not owned in Sweet Grass county but were shipped into said county last fall for winter feeding. They were fed in feed pens on a ranch in said county and were also grazed on land which their owner had under lease and which was not enclosed by a sheep-tight fence.

Section 2069, supra, provides in part that all livestock **pastured, ranged, or grazed** in another than their home county, shall be assessed for taxation in the county where such livestock is found at the time fixed by law for the assessment of property. The latter part of the section contains the following proviso:

"Provided however, that the tax on all livestock fed in feeding pens or other enclosures in any county or counties

other than the home county of such livestock, shall not be apportioned as provided herein, but shall be paid in full to the treasurer of the home county of such livestock."

The intent of the legislature in the use of the language above quoted seems to me to be this: to tax in the manner indicated in the section all livestock **pastured, ranged or grazed** in another than the home county but to exempt from the act such livestock as might be fed in feed pens or other enclosure. The word "feed" commonly indicates the furnishing of hay, grain, or other feed which has been severed from the soil and prepared for use. It is distinguished in common parlance from the words "pastured", "ranged", or "grazed."

Since it appears from the county attorney's letter that the sheep were **grazed** on lands belonging to the owner it is my opinion that they are not within the exception above quoted and hence should be assessed as migratory stock if they were in Sweet Grass county at the time fixed by law for the making of the assessment.

Very truly yours,

L. A. FOOT,
Attorney General.