

Opinion No. 148**Livestock—Migratory Cattle and Sheep
—Taxation—Counties.**

HELD: If cattle or sheep are owned and generally range in one county and yet, prior to and on the first Monday in March, are and have been held within an enclosure in another county they shall be listed for taxation and taxed only in the county of their home and general grazing ground.

If cattle or sheep have, prior to such first Monday in March, been moved into a second county, and have not been kept within an enclosure, but have been permitted to range in such county, they must be listed for taxation and assessed in such county.

In the latter case, the money received from taxation of such livestock is divided in accordance with R. C. M. 1921, Sec. 2071.

April 10, 1933.

We are in receipt of your favor of April 3. The question you ask is as follows: "Does the stock (cattle or sheep) belonging to a resident of Meagher County, who moves said stock into another county for pasturage from November to April, become subject to taxation in the county in which they are found on the first day of March?"

As an answer to that question we would refer you to the following: Revised Codes of Montana, 1921, 2069. Attorney General's Opinions Vol. 10, p. 48; Vol. 12, p. 220; Volume 14, p. 369. *Peterson v. Granite County*, 76 Mont. 214.

The question involved in your letter appears to be somewhat difficult of solution as a general principle, and appears to be governed by the last clause or subdivision of Section 2069. In the case of *Peterson v. Granite County*, supra, this condition prevailed: "After they reached the feeding ground on or about the date aforesaid, the sheep were kept in feeding pens and other enclosures in Granite County, and were in the immediate possession and custody of plaintiff and his agents and employees. The sheep never run at large in Granite County." In that case it was held that they were only subject to taxation in Powell County, the

home of the owner thereof, and the county where the sheep were generally kept. Therefore, there can be no question when sheep are kept in feeding pens in the county to which they are removed they cannot be taxed therein.

The statute and the decision of the Montana Supreme Court definitely hold:

1. That if cattle or sheep are owned and generally range in one county, and yet prior to and on the first Monday in March, are and have been held within an enclosure in another county they shall be listed for taxation and taxed only in the county of their home and general grazing ground.

2. If cattle or sheep have, prior to such first Monday in March, been moved into a second county and have not been kept within an enclosure, but have been permitted to range in such second county they must be listed for taxation and assessed in such second county.

3. In the latter case the money received from taxation of such livestock is divided in accordance with Revised Codes, Section 2071.