

Opinion No. 624

Livestock—Herd Districts—Horses

HELD: Sections 2 and 3 of Chapter 119, Laws of 1931, are all inclusive and prohibit all horses from running at large within a horse herd district and are not limited to horses owned by persons not within the district.

October 9, 1934.

You have asked my opinion as to the meaning of Sections 2 and 3 of

Chapter 119, Laws of 1931. These sections read as follows:

"Section 2. All horses are hereby prohibited from running at large within any horse herd district as defined in Section 1 of this Act.

"Section 3. If any such horse or horses wrongfully enter upon premises within such district of any person, the owner or person in control of such horse or horses shall be punished according to the provisions of Section 3389 of the Revised Codes of Montana of 1921, and in addition to said punishment shall be liable for all damages sustained thereby to the party entitled thereto."

The question you raise is whether all horses are prohibited from running at large within a horse herd district, or whether only horses belonging to people whose lands are not included in the district, are prohibited from running at large within the herd district.

It is my opinion that it was the purpose of the law to prohibit all horses from running at large within a horse herd district. To permit horses belonging to persons whose lands are included in the district, to run at large, would defeat the object of the law. I do not believe that the words of the statute will permit of any other construction. Section 2 specifically provides that "all horses are hereby prohibited from running at large within any horse herd district." The words in Section 3, "if any such horse or horses" refer to "all horses." The first two lines of Section 3 might have been a little clearer if they had read, "If any such horse or horses wrongfully enter upon premises of any person within such district * * *."