

Opinion No. 43.

Livestock — State Livestock — Inspection—Movement of Livestock From One County to Another—Statutes —Construction—Section 3324 as Amended by Chapter 85, Laws of 1939.

HELD: Section 3324 as amended by Chapter 85, Laws of 1939, providing for the inspection of livestock when moved from one county to another does not apply to livestock owned by the state for the reason that the state is not within the purview of the statute.

April 7, 1939.

Mr. Paul Raftery  
Secretary, Montana Livestock  
Commission  
The Capitol

Dear Mr. Raftery:

At the request of the Agricultural College at Bozeman, you have submitted for my opinion the question

whether livestock owned by the state and kept at the various experimental stations may be transported from a station to a sub-station, or from one county to another for range purposes, there being no change of ownership, without inspection at the point of origin, and whether the livestock commission may issue a permit to transport such livestock.

Section 3324, R. C. M., 1935, as amended by Chapter 85, Laws of 1939, provides for the inspection of livestock when moved from one county to another by any person, association or corporation. This section contains the proviso:

“Provided, however, that the provisions of this Act shall not apply to the said stock when driven by the owner from one county to another for the purpose of pasturing, feeding or changing the range thereof, nor to any stock so removed or taken from one county to another by any person, association or corporation when such stock is used in the ordinary conduct of his or its business and such person, association or corporation has been the owner of said stock to be removed for at least three months.”

This exception clearly covers livestock moved for the purpose stated above; moreover, this section does not apply to livestock owned by the state for the reason that the state is not within the purview of the statute.

In 15 C. J. 1103, Section 653, it is stated:

“The state and its agencies are not to be considered as within the purview of a statute, however general and comprehensive the language of such act may be, unless an intention to include them is clearly manifest, as where they are expressly named therein, or included by necessary implication.”

Moreover, since Section 3324, as amended, and related sections were enacted primarily to prevent theft of livestock, and the state cannot commit a crime against itself, there is no reason for its application to the state.