

Opinion No. 79.

Livestock—Inspection—Seizure

HELD: Sections 3327.1 and 3327.2 do not limit the seizure and sale of livestock to instances where livestock has been sold; livestock may be seized and sold even though it may be withdrawn from sale after being shipped.

June 16, 1939.

Mr. Paul Raftery
Secretary, Montana Livestock
Commission
The Capitol

Dear Mr. Raftery:

We acknowledge receipt of the following:

"I wish you would give me your opinion on the following question. At the stock yards operated in Billings we require all horses and cattle to be inspected for brands and ownership prior to their sale. The following situation has arisen several times recently especially with reference to the sale of horses brought to the Billings yards.

"A man will bring in a number of horses to be sold through the market at Billings. These horses are inspected for brands and the determination of ownership by our stock inspector before the sale. A tally is then furnished by our inspector to the Billings Livestock Commission Company indicating whether or not the titles to the horses in question have been cleared and instructing them as to the distribution of the proceeds from the sale of the horses. Where a title is clear the horses have been sold and the proceeds released to the person presenting the horses for sale. Where the proceeds from the sale of horses have been ordered held by our inspector, prior to the sale, certain sellers have withdrawn such horses from the sale ring prior to their sale and have taken them out of the Billings stock yards.

"* * * We are of the opinion that Section 3327.1 gives our inspector at Billings authority to seize such stock where title is not clear and either hold it for proof of ownership or order it sold immediately. Will you kindly give me your opinion as to whether or not our inspectors have authority to do this."

We are of the opinion that your conclusion is correct. Sections 3327.1 and 3327.2 are not limited in their operation to instances where livestock is sold. No person can defeat the operation of these statutes by the simple device of withdrawing livestock from sale when he discovers that he

has been caught with stolen property. This would defeat the express purpose of the statute for in that event everyone could make an attempt to get by and failing, back up and try to dispose of stolen property in some other way. The state is not so helpless that it must stand by while this is done.