

No. 132

**TAYLOR GRAZING ACT — RANGE IMPROVEMENTS,
what are—DISTRICT ADVISORY BOARD, powers of**

Held: Scales used for weighing purposes at the place where a corral and chute are constructed are "range improvements" referred to in Chapter 102, Laws of 1939, and funds provided under said Act may be expended in the purchase thereof.

May 28, 1941.

Mr. Robert E. Purcell
County Attorney
Garfield County
Jordan, Montana

Dear Mr. Purcell:

You have, on behalf of the District Advisory Board of Grazing District No. 2, advised that the Board has authorized the expenditure of funds for a corral, loading chute, and to purchase and install a scale. You have requested an opinion as to whether scales for weighing purposes—installed at the place where the corral and chute are constructed—may be considered as range improvements for which the funds may be expended.

Chapter 102, Laws of 1939, amends Section 191.2, Revised Codes of Montana, 1935, as amended by Chapter 55, Laws of 1937, and provides that the monies earned under Section 3 of the Taylor Grazing Act be allocated "to a fund to be designated as a special grazing fund" and then provides:

"The funds comprising said special grazing fund shall be expended only for range improvements such as fences, reservoirs, wells, and for such other range improvements as the district advisory board may approve . . ." (Emphasis mine.)

The statute specifically mentions certain improvements, such as fences, reservoirs and wells, and then states, "for such other range improvements as the District Advisory Board may approve." By the language of this clause, it is clear the legislature intended to vest discretion in the district advisory board as to what "other range improvements" shall be made. In addition to the specific improvements authorized, the legislature—by the clause quoted—has granted broad authority to provide such other improvements as the board may approve.

Our Supreme Court—in considering the question of discretion vested in boards and commissions by legislative enactments—in the case of Guillot v. State Highway Commission, et al., 102 Mont. 149, 56 Pac. (2nd) 1072, said:

"Where the legislature sees fit to confer upon a board or commission such broad, general powers, the repository of the power is vested with discretion in choosing the means and methods of accomplishing the results expected, and, in the absence of fraud or manifest abuse of that discretion, its determination is conclusive."

This office recently held under this clause of the Act a District Advisory Board may expend these funds for use in cricket, rodent and predatory animal control and for the purchase of fire fighting equipment to be used in controlling range fires. (See Opinion No. 123, Volume 19, Opinions of the Attorney General.)

It is therefore my opinion that, if the Board deems it essential and necessary in carrying out the purposes of the Act that such scale be procured, it may expend these funds in the purchase of the same.

Sincerely yours,

JOHN W. BONNER
Attorney General