

No. 29

LIVESTOCK—STOCK INSPECTORS—SHERIFF

Held: A Sheriff has no statutory right to act as a Stock Inspector.

February 19, 1941.

Honorable Reynold C. Dahl
Senator from Cascade County
State Capitol
Helena, Montana

Dear Mr. Dahl:

You have requested my opinion as to whether or not sheriffs may act as stock inspectors.

The only provision of our statute permitting inspection by sheriffs is found in Section 3317, Revised Codes of Montana, 1935. This section is part of Chapter 287 of the Political Code and relates to inspection of horses and cattle before removal from the State. Section 3317 specifically provides that inspection of horses and mules might be done by "a stock inspector, or the sheriff of the county from which such stock is to be removed . . ." Section 3321 of the same Chapter provides for inspection of cattle but specifically states that such inspection is to be by "a stock inspector of the State . . ."

In 1937, Section 3321 was amended by Chapter 136, Laws of 1937, to include horses, mules and cattle, and provides for inspection of the same by "a stock inspector of the state." Section 3317, supra, was not changed. However, there would appear to be a conflict between Section 3317 and 3321, as amended. Under the well-established rules of interpretation, where two acts dealing with the same subject are in conflict, the later act repeals the earlier one (*Territory v. Gilbert*, 1 Mont. 371; *State v. Dist. Court*, 41 Mont. 357; *State v. Dist. Court*, 56 Mont. 464), especially where it clearly appears that it was the intention of the Legislature in enacting the later statute that it should be the only law on the subject. (*State v. Quinn*, 40 Mont. 472).

It is therefore my opinion that in view of Chapter 136, Laws of 1937, a sheriff has no statutory right to act as stock inspector.

Sincerely yours,

JOHN W. BONNER
Attorney General