

Opinion No. 142

**Butchers and Licensed Meat
Peddlers.**

Held: That there is no irreconcilable conflict between sections 3298.18 and 3298.20 R.C.M., 1935, and that one who pur-

chases the hide, carcass, or any part thereof of any beef or veal without the inspection or identification as provided in Section 3298.20, except from a licensed butcher or peddler in less than one quarter, is liable to the penalty imposed under Section 3298.24 R.C.M., 1935.

October 4, 1948

Mr. Bert W. Kronmiller
County Attorney
Big Horn County
Hardin, Montana

Dear Mr. Kronmiller:

You have requested my opinion on the following:

"A, who is a member of the Crow Indian Tribe, recently butchered a steer which was owned by A. A lives in the town of Crow Agency, Montana, and after butchering the animal he sells two hind quarters to B. B is an operator of a restaurant in the town of Crow Agency, Montana. C. lives at Crow Agency also and A sells C a portion of said beef. A did not have any butcher or peddlers license as required by provisions of said Chapter 284 and did not have the meat inspected as required by the provisions of said Chapter 284, (Revised Codes of Montana, 1935). It is apparent that both B and C are neighbors of A.

"Can B and C be prosecuted under the provisions of Section 3298.20. . ."

Your inquiry is to be answered by the language of Section 3298.18, which was amended by Chapter 78, Laws of 1941, and Section 3298.20, Revised Codes of Montana, 1935.

The amendment of Section 3298.18 by Chapter 78, Laws of 1941, did not change or affect the pertinent part thereof, which is as follows:

"Any person who kills beef or veal in good faith for his own use or for the use of himself and three (3) neighbors shall not be required to have such meat inspected or stamped, nor shall he be required to procure any license provided for in this Act." (Emphasis supplied)

Section 3298.20 Revised Codes of Montana, 1935, provides as follows:

"It shall be unlawful for any person or persons, firm, corporation, or association to purchase the hide or carcass or any part thereof of any beef or veal without the inspection or identification herein provided for. The provision of this section shall not apply to any person or persons who shall purchase from a licensed butcher or peddler beef or veal in quantities less than one quarter of an animal."

The foregoing sections are a part of the same legislative act being Chapter 172, Laws of 1931. On reading, there appears to be an irreconcilable conflict between them. However, the legislature is presumed to have intended no conflict and their intent must control. It is our duty to construe the law as we find it, giving each section the legislative interpretation if ascertainable.

The meaning of a law must, in the first instance, depend upon the context and must be ascertained from the occasion and necessity of the law, the mischief felt, and the object and remedy in view.

The occasion and necessity of this law was brought about by the inroads on the livestock industry by the rustler with his modern methods of transportation and butchering. This also was the mischief felt and the object was to curb stealing and unlawful butchering of livestock.

Our Court has stated the principal of construction of a statute aptly as follows:

"In construing a statute the court looks first to the object and purposes of the statute and the evil sought to be remedied."

Muholland v. Ayers, 109 Mont.
558, 99 Pac. (2d) 234.

and again:

"In construing statutes, words employed should be given such meaning as is required by the context, and as is necessary to give effect to the purpose of the statute, and it is the duty of the court to restrict the meaning of general words whenever it is found neces-

sary to do so in order to carry out the legislative intention."

In re Takahashi's Estate, 113 Mont. 490. 129 Pac. (2d) 217

Anyone familiar with the livestock industry and especially the raising of cattle, realizes the hazards brought about by the modern rustler, with his fast motor truck and his butchering equipment, which can be brought into play instantly at any of a hundred remote places. The legislature, faced with these facts, passed this Act to effectuate the protection of such property from these inroads. Keeping in mind the rules applicable to the construing of statutes, it is apparent the legislature, in enacting Section 3298.20 Revised Codes of Montana, 1935, which was Section 5 of Chapter 172, Laws of 1931, intended it should apply to every person or persons, firms, corporations or associations that purchased the hide or carcass or any part thereof of any beef or veal without the inspection or identification as in the Act provided, excepting only the purchase from a licensed butcher or peddler, in quantities less than one quarter of an animal.

The act also provided one other exemption contained in the last paragraph of Section 3 of Chapter 172, Laws of 1931, now being the last paragraph of Section 3298.18 Revised Codes of Montana, 1935, as follows:

"Any person that kills beef or veal in good faith for his own use or for the use of himself and three (3) neighbors shall not be required to have such meat inspected or stamped, nor shall he be required to procure any license provided for in this Act."

One familiar with the common practices among cattle ranchers readily understands this last above mentioned exemption. For years it has been the common practice of cattle raisers, that one rancher will butcher one of his beef. He cannot use it all for his family, so two or three other neighbor ranchers often help with the butchering and the beef is divided between the two, three or four. When beef is again needed, one of the other neighbors butchers,

and that beef is divided with the one first butchering receiving his part. This is a trade or industry exemption among the very persons who raise cattle, and are all engaged in the same business.

There is no sale or purchase of beef or veal involved in this exemption; the beef or veal involved therein is for the own use of the person butchering and for the own use of his neighbors, not exceeding three.

The words "own use" have a meaning in law, as stated by the Missouri Supreme Court: That in a bill of sale, deed of real estate, a gift or bequest, the words "to her own use", "for her own use", "to his own use", "for his own use", etc., means for the person's exclusive use."

Clack v. McGuire, 16 Mo. 302

The intent and meaning expressed by the legislature in the above quoted statute, by the words "for his own use" or "for the use of himself and three neighbors", means for their individual and family use. Any other interpretation would lead to absurdity. It is to be presumed the legislature never write absurdities into legislative acts.

It, therefore, appears that any apparent conflict between the last paragraph of Section 3298.18, Revised Codes of Montana, 1935 and the provisions of Section 3298.20, Revised Codes of Montana, 1935, may in reading the whole Act together, be reconciled: by understanding the object and purpose and the evil sought to be remedied; by giving such meaning as is required by the context and as is necessary to give effect to the purpose of the Act and the intent of the legislature. Thus the two sections emerge without conflict, for each Section pertains to and is to be applied to a separate and distinct situation or state of facts.

The legislature by enacting Section 3298.20 Revised Codes of Montana, 1935, seeks to reach the unlawful acts therein set out by applying the section to any person or persons, etc., who purchase the hide or carcass or any part thereof of any beef or veal without inspection or identification, as provided in the Act; however, this

provision does not apply where the person purchased from a licensed butcher or peddler of beef or veal in quantities less than one quarter of an animal.

The distinction made in the foregoing section is a purchase of beef or veal without inspection, except from a licensed butcher or peddler and then in less than one quarter of an animal.

While the last paragraph of Section 3298.18, *Supra*, deals with an entirely separate and distinct situation where no purchase of beef or veal is involved, but said section applies only to the person who in good faith, kills beef or veal for his own use or the use of himself and for the use of not more than three neighbors.

It is to be noted there is no purchase of beef or veal involved in this part of Section 3298.18, *supra*.

It, therefore, is my opinion that there is no irreconcilable conflict in the two sections, and that one who purchases the hide, carcass, or any part thereof of any beef or veal without the inspection or identification in the Act provided, except from a licensed butcher or peddler in less than one quarter, is liable to the penalty imposed under Section 3298.24, Revised Codes of Montana, 1935.

Sincerely yours,
R. V. BOTTOMLY
Attorney General