

## Opinion No. 35

## Livestock—Breeders—Associations

**Held:** Exception number (5) of part (g) of Section 1 of Chapter 193, Laws of 1945, excepts from the definition of "livestock market" places where breeders or associations of breeders of livestock assemble and sell such livestock—but does not except individuals or associations of individuals who raise livestock merely for a particular use, such as for rodeo purposes, slaughtering and canning, pack purposes, and similar special uses.

May 15, 1947

Mr. Ralph Miracle  
Executive Officer  
State Livestock Commission  
Helena, Montana

Dear Mr. Miracle:

You have presented this problem:

An auction sale of bucking horses, sponsored by the "Bucking Horse Association", has been advertised for May 17 and 18 in Yellowstone County. The sale is not licensed or bonded; and counsel for the "Bucking Horse Association" contends the alleged association is an "association of breeders of livestock of any class", which excepts it from the provisions of Chapter 193 of the Laws of 1945.

Bucking horses are, as the name implies, horses which buck and are used primarily for rodeo and similar exhibition purposes. Is a sale by such an association as above described an exception to the livestock market definition as specified by Montana law?

Section 1 of Chapter 193 of the Laws of 1945, provides, in part:

" \* \* \* The term 'livestock market' means a place where a person shall assemble livestock for either private or public sale by him and such service is to be compensated for by owner, on a commission basis or otherwise, except: (1) Any place used solely for a dispersal sale of the livestock of a farmer, dairyman, livestock breeder or feeder who is discontinuing said business and no other livestock is there sold or offered for sale; (2) Any farm, ranch, or place where livestock either raised or kept thereon for the grazing season or for fattening is sold, and no other livestock is brought there for sale or offered for sale; (3) The premises of any butcher, packer, or processor who received animals exclusively for immediate slaughter; (4) The premises of any person, firm, association, or corporation engaged in the raising of livestock for breeding purposes only, who limits his or its sale to animals of his or its own production; (5) Any place where a breeder or an association of breeders of livestock of any class assemble and offer for sale and sell under his or their own management any livestock, when such breeder or association of breeders shall assume all responsibility of such sale and the title of livestock sold." (Emphasis mine).

Your question resolves itself to interpretation of the intent of our legislative assembly when it used the words "breeders of livestock of any class."

When a somewhat similar problem presented itself in 1943, I remarked exception number five, *supra*, contemplated "a duly constituted and regularly organized association, such as all stockmen are familiar with." See opinion number 86, pages 107 and 108, Volume 20, Report and Official Opinions of the Attorney General.

The Montana Supreme Court has said construction of a statute requires ascertaining and carrying into effect the intention of the legislature, if possible, and the intention is to be gathered from the terms of the statute considered in the light of the surrounding circumstances. (State ex

rel. Haynes v. District Court of First Judicial District, (1938) 106 Mont. 470, 479, 78 Pac. (2d) 937).

Webster's New International Dictionary, second edition, 1941, defines the word "class" as "A group of persons, things, qualities, or activities, having common characteristics or attributes; a set; a kind, description, species or variety."

It was correctly observed by a former Attorney General: "It is . . . recognized Montana is one of the leading agricultural and livestock states in the Union and it is to the benefit of the state to see to it that those industries are not impaired." (Opinion number 187, page 300, Volume 19, Report and Official Opinions of the Attorney General). Chapter 193 of the Laws of 1945, which we are here discussing, is one of Montana's statutes designed to protect the ownership of livestock and to promote the welfare of the livestock industry.

What then did the legislature mean when it referred to "class" of livestock? The committees on livestock legislation and the members of the House and Senate who passed the legislation—it may be safely assumed in this livestock state—were, by and large, intending to exempt from the definition of a livestock market those sales conducted by a breeder or association of breeders of livestock. I cannot, in view of the licensing, bonding, inspection, and penalty provisions contained in Chapter 193, bring myself to the strained and illogical conclusion that the legislature meant to exempt breeders or associations of breeders of livestock for a particular use.

There are—and were when the Chapter involved was enacted—several recognized associations of breeders of livestock functioning in this state and the west. A few such associations or societies are the following: National Hereford Association, Northeastern Montana Hereford Association, National Shorthorn Association, Montana Shorthorn Association, National Percheron Association, National Belgian Horse Association, National Morgan Horse Association, and the Palomino Horse Breeders of America. These associations are or

ganized for the purpose of maintaining and strengthening pure blood lines and thus are essentially valuable to the livestock industry.

However, if associations dedicated to a particular use of livestock are to be formed to avoid the operation of Chapter 193, we shall see the birth of innumerable associations which—I am convinced—were not contemplated by our legislature. Uses of horses, for example, are many; and if the “Bucking Horse Association” constitutes an excepted association within the provisions of Section 1(g) (5) of Chapter 193, then I submit a Riding Horse Association, Canner Horse Association, Roping and Cutting Horse Association, Draft Horse Association, Pack Horse Association, and Trick Horse Association will be just as legal and valid—and will be allowed to conduct unlicensed and unbonded sales of livestock. It is scarcely necessary to point out what applies to horses and horse associations will apply with equal force and effect to cattle and cattle associations.

If such a construction of the provision here under consideration were to be adopted as the intention of the legislature, then—in effect—the legislature in section 1 of Chapter 193 voided the purpose of the Act itself. The fundamental purpose of a law must be kept in view, and every section must be read with such purpose in mind. (*State v. Duncan*, (1918) 55 Mont. 376, 177 Pac. 248).

It is my opinion exception number (5) of part (g) of Section 1 of Chapter 193, Laws of 1945, excepts from the definition of “livestock market” places where breeders or associations of breeders of livestock assemble and sell such livestock—but does not except individuals or associations of individuals who raise livestock merely for a particular use, such as for rodeo purposes, slaughtering and canning, pack purposes, and similar special uses.

Sincerely yours,  
R. V. BOTTOMLY,  
Attorney General