

Opinion No. 13-1086

July 29, 1913

BY: H. S. CLANCY, Assistant Attorney General

TO: W. J. Linwood, Secretary, Cattle Sanitary Board, Albuquerque, N. M.

CATTLE.

Defacing brands, inspection of brands on hides and shipment of beef from Old Mexico unaccompanied by hide.

OPINION

{*257} I have your letter of the 26th inst. in which you say, among other things, that the attention of your Board has been called to the fact that there is an organized outfit in southwestern Grant County "that is carrying on the illegal branding of cattle in the way of burning over old brands and branding anything that can be found unbranded." The burning over, defacing or obliterating any brand is made a felony by our statute, and the obliteration of the old brand and the placing of a new one upon the animal would be **prima facie** evidence that the owner of the fresh brand was the person who defaced the old one.

In the particular cases referred to, you do not state whether the new brand is a recorded brand or not. In case it is an unrecorded brand, the animal is subject to seizure by agents of the Board, provided it is found within the exterior boundaries of New Mexico, and the fact that it bears an Old Mexico brand could not exempt it from seizure, such brand being unrecorded in New Mexico.

You also state that your inspector along the line between Old Mexico and New Mexico is having considerable difficulty in the inspection of hides at different railroad shipping points, it being impossible to decipher some of the brands upon the hides, and that you have instructed him, in such cases, to refuse to pass the same until thoroughly satisfied as to the brands. It is the opinion of this office that you have correctly instructed your inspector.

You also ask for the opinion of this office as to whether you would be justified in making charges for beef brought into New Mexico from Old Mexico unaccompanied by the hide, but which has been properly inspected and passed by the Federal Government. In reply to this, I would say that beef, which has been properly inspected by the agents of the Federal Government at the boundary line, would not come under your jurisdiction. An attempt to interfere with such beef would be an interference with the general government which controls the importation of such classes of merchandise from a foreign country. You will observe by the proviso contained in Section 3, {*258} Chapter 44 of the Laws of 1899, that dressed meats which are shipped into New Mexico from

any other state or territory do not require the inspection of the hides or brands. The same method should be pursued in regard to meats which have been passed by the United States Customs officers.

It appears to me that the question of the illegal branding of cattle hinges largely upon whether the brand used is a recorded or unrecorded one.

If you have a pamphlet copy of the laws in regard to cattle, I shall be under obligations if you will forward a copy to this office.