

Herd Law—Lands, Meadow—Actual Cultivation.

Meadow land, improved by manual industry, comes within the meaning of land under "actual cultivation" as used in Section 2 of Chapter 167, Laws of 1919.

June 6, 1919.

Hon. Charles G. Caddis, Chairman,
Board of County Commissioners,
White Sulphur Springs, Montana.

Dear Sir:

Answering your letter of recent date in which you request my opinion as to the meaning of the phrase "actual cultivation" as used in Section 2 of Chapter 167 of the Laws of 1919, commonly known as the "Herd Law," and if natural meadow lands should be classed as cultivated lands.

Generally speaking, land in its natural condition is not in a state of cultivation. Cultivate means to improve the product of the earth by manual industry, whether for tillage, meadow or pasture. The yearly cutting and removal of the grass is such an act.

Wight v. Meyer, 59 N. Y. Sup. 70-72.

Thus, in Clark v. Phelps, (N. Y.) 4 Cow. 190-203, the Court, in speaking of the term "improved or cultivated land" said: "These terms are to be taken in the popular sense, according to the general understanding of the community. To improve and cultivate may be considered synonymous."

Mr. Bailey, in his Dictionary, defines "cultivate" to be "to till or husband the ground; to forward the product of the earth by general industry."

It is, therefore, my opinion that if meadow land has been improved by means of manual industry and that the production of grass has been increased or forwarded by such manual industry or tillage, whether for the use of pasture or for the cutting of hay, would come within the meaning of land under "actual cultivation" as used in said Chapter 167 and should be classed as cultivated lands.

Respectfully,

S. C. FORD,

Attorney General.