

### Herd District—Land Adjoining.

Petitioner who desires land to be joined to a herd district must be owner or possessor thereof, which should be contiguous to and adjoin the original district.

Sept. 9, 1919.

Mr. H. G. Bennett,  
County Attorney,  
Great Falls, Mont.

Dear Sir:

I have your letter of August 27th, in which you ask me for an opinion construing the Herd Law passed by the Sixteenth Legislative Assembly, known as Chapter 167, approved March 7, 1919.

From your letter I understand that the point in controversy and upon which you desire a construction relates to the contour of land which it is desired shall be joined to an original herd district established under the Act aforesaid.

The question which you present has not been passed upon by our Supreme Court and in the very nature of things, it has not been passed upon by courts of other jurisdictions. Herd laws of a particular state are statutes peculiar to each state, no two of which are necessarily alike. We must, therefore, confine ourselves to the language used in the Act, and from such language determine what our legislature meant to accomplish. As to the original herd district under the law and its boundaries and contour there is no controversy.

Section 2 of the Act provides that:

“Upon petition of any owner or possessor of lands lying contiguous and adjoining any herd district theretofore created, and upon like hearing and notice any provision as hereinbefore provided for such lands shall be included in said herd district and become a part thereof.”

In the first place, the language used, as above quoted, is not entirely clear, and lands might be added to the herd district which would lead to absurd conditions. I am of the opinion that what the legislature meant is that the petitioner who desires land to be joined to a herd district established must be the owner or possessor of such land, and that the land affected by such petition must be contiguous to and adjoin the original district. In other words, the matter of adding further land to a herd

district must be land which adjoins the original district, and not any land which already has been so joined. Otherwise, such land, under the Act, cannot be joined.

Respectfully,

S. C. FORD,

Attorney General.