

Aliens—Land—Laborers—Contracts.

Any contract which gives an alien the right to use, possess or occupy agricultural land is illegal, but an alien may be hired as a farm laborer for wages.

Dwight N. Mason, Esq.,
County Attorney,
Missoula, Montana.

March 30, 1926.

My dear Mr. Mason :

You have requested my opinion whether subdivision k of section 1 of chapter 58, session laws of 1923, being the alien land act, prohibits a land owner from either employing an alien Chinese or Japanese, or entering into any crop agreement with him, and whether it prohibits such alien from going upon agricultural land at all for any purpose whatsoever.

Section 2 of chapter 58 of the laws of 1923 provides as follows :

“An alien shall not own land or take or hold title thereto. No person shall take or hold land or title to land for an alien. Land now held by or for aliens in violation of the constitution of the state is forfeited to and declared to be the property of the state. Land hereafter conveyed to or for the use of aliens in violation of the constitution or of this act shall thereby be forfeited to and become the property of the state. Nothing herein contained shall be construed to destroy or limit existing or vested rights of any person at the time of the passage of this act.”

Subdivision d, section 1 of said chapter defines the word “own” as follows :

“To ‘own’ means to have the legal or equitable title to or the right to any benefit of.”

Subdivision k of section 1 of said chapter further provides :

“To ‘own’ also means to have or hold any contract or agreement with the owner or possessor of land whereby the holder of such contract or agreement is required or permitted to possess, use or occupy such land.”

It is clear from these definitions of the word "own" that the legislature intended to prohibit Chinese and Japanese and other aliens of this class from possessing, using or occupying agricultural land in any manner, and therefore any contract or agreement which in any way gives the alien the right to use, possess and occupy the land would be illegal.

I do not believe, however, that this act prevents the alien from entering upon agricultural land under a contract for employment which does not give him any right to the interest in the crop or to possess or occupy the land such as a contract of employment providing for straight wages as a farm laborer.

It is, therefore, my opinion that wherever an alien is operating under a contract which in any way gives him the right to use, occupy or possess the land, that said land is subject to forfeiture to the state, as provided in section 2 of the act.

Very truly yours,

L. A. FOOT,

Attorney General.