

No. 256

**COUNTY ATTORNEYS—GRAZING DISTRICTS—
LEGAL COUNSEL**

Held: County attorneys are not required to act as legal counsel or in other capacity for state grazing districts lying within their respective counties, but their duties are confined to prosecuting violations of the criminal provisions of the grass conservation act.

October 3, 1941.

Mr. Walter R. Flachsenhar
County Attorney
Prairie County
Terry, Montana

Dear Mr. Flachsenhar:

You have asked this office whether county attorneys are required to act for grazing "associations" organized under Chapter 208, Laws of 1939, known as the "grass conservation act," and especially in connection with the impounding of stock under Section 3379 of the Revised Codes of Montana, 1935, as provided for in Section 26, subsection (2) of said act.

The legislation under the authority of which "state districts" are organized contemplates each organized district should be a separate corporate entity—"an non-profit cooperative organization," as defined in Section 1 of the grass conservation act, with power, under Section 12 of the act, to sue and be sued, to employ and discharge employees, and to conduct such other and usual affairs as might be necessary in carrying on the business contemplated. The Montana Grass Conservation Commission also has authority to "hire and discharge employees and legal counsel," this under Section 7, subsection (6) of the act.

The duties of county attorneys are set out rather explicitly in many sections of the Revised Codes of Montana and subsequent session laws, the broadest of which sections is, perhaps, Section 4819. The county attorney shall perform "such other duties as are required by law." (Section 4823, Revised Codes of Montana, 1935.)

The duties of county officers include such duties as are naturally and necessarily implied from the language of the statutes. (20 C. J. S. 950.) There does not seem to have been any legislative intention, either expressly or impliedly, to make the county attorney legal adviser for a district formed under Chapter 208, Laws of 1939. In fact, as above indicated, it appears these corporate entities formed under Chapter 208 of the Laws of 1939 are expected to employ their own legal counsel and other necessary employees and to carry on their business under the powers granted by Section 12 of the act without the aid of the county attorney in their district affairs. Neither Section 4819 of the Revised Codes of Montana, 1935, nor any other section of the statutes imply that county attorneys have the duty of acting as legal counsel for state grazing districts.

It is my opinion county attorneys are not required to act as legal counsel or in other capacity for the state grazing districts that may lie within their respective counties, but their duties are confined to prosecuting in behalf of the state such persons as may become liable to criminal prosecution for violation of the criminal portions of the grass conservation act.

Sincerely yours,

JOHN W. BONNER
Attorney General