

## Opinion No. 17-1912

January 6, 1917

**BY:** HARRY L. PATTON, Attorney General

**TO:** Hon. L. C. Mersfelder, Senator from Curry County, Santa Fe, New Mexico.

Local Herd Law of 1909 Still Effective in Curry County.

### OPINION

I am in receipt of your letter of this date making inquiry as to whether or not a herd law is in force in Curry County. In reply will say that Chapter 94 of the laws of the Territorial Legislature of 1909, provides for the establishment of a herd law in the counties of Quay and Roosevelt and a portion of the county of Guadalupe. At the time of the introduction of the bill providing for this act, Curry County had not been created. Later Curry County was created. By the provisions of Chapter 138 of the said laws of 1909, the provisions of Chapter 94 were extended to the County of Curry. In my opinion this legislation provided for the creation of a herd law in Curry County and such law would remain in force until repealed.

The state legislature of the session of 1915 passed an act to codify the laws of the State of New Mexico. The codification adopted is now known as the Code of 1915. The herd law referred to and passed in 1909 is not embraced in the Code of 1915. The question then arises as to whether or not this herd law was repealed by not being embraced in the Code of 1915. The repealing clause of the Code of 1915 provides as follows:

"All acts and parts of acts of a **general** and **permanent nature** not contained in this codification, are hereby repealed."

Had the herd law referred to been an act of general and permanent nature I am of the opinion that the same would have been repealed by reason of being omitted from the Code of 1915. Said herd law was not of a general nature but was of the nature of special or local legislation and pertained only to the counties of Quay, Curry, Roosevelt and a part of the county of Guadalupe, and in my opinion was not repealed by the codification act and so far as Curry County is concerned, has the same validity and force as it had before the passage of the codification act.

Note: -- The views contained in the above letter were confirmed in *Scarborough s.v. Wooten*, 23, N.M. 616, 170 Pacific 743.