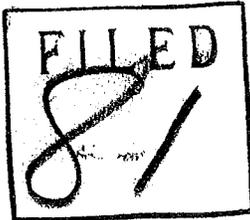


ANIMALS: Cattle may be allowed to run at large in a township which has not voted to enforce the provisions of Chapter 270 concerning the restraint of animals from running at large, even though the owner of said cattle may be a resident of another township which has voted to enforce the law restraining animals from running at large.

April 30, 1954



Honorable William E. Seay
Prosecuting Attorney
Dent County
Salem, Missouri

Dear Sir:

By a letter dated April 22, 1954, you requested an official opinion as follows:

"A resident of this county has come into my office and stated to me that he lives in a township which has voted to enforce the provisions of Chapter 270 of the 1949 Revised Statutes of Missouri, which chapter deals with restraining animals from running at large.

"This individual lives within a quarter of a mile of a township which has not elected to come under said chapter. The individual has told me that he intends to turn his cattle out in the township which has not elected to come under chapter 270 and I should like to have an opinion as to the following.

"Will it be a violation of the provisions of Chapter 270.010 as an individual living in a township elects to come under the provisions of Chapter 270 to turn this cattle out in a township which has not elected to come under the provisions of Chapter 270."

All statutory citations herein are RSMo 1949.

Honorable William E. Seay

Section 270.080 provides that Chapter 270 shall not be enforced in any county until a majority of the legal voters of the county shall elect to enforce said Chapter in such county.

We assume from your letter that a majority of the legal voters of Dent County have not voted to enforce the provisions of Chapter 270.

In those counties which have not adopted Chapter 270, provision is made for voting on the proposition of enforcing the law restraining animals from running at large by certain types of townships. Those Sections are 270.130, 270.140, 270.150 and 270.160. Those Sections are not quoted here because of their length, and because the quotation of them is not necessary to this opinion. Suffice it to say that certain townships may adopt the law to enforce restraint of animals.

Assuming that the township in which the individual mentioned in your letter lives has legally adopted the provisions of Chapter 270, we turn to your question. That question is whether a resident of a township having voted to enforce the law restraining animals from running at large may allow his cattle to run at large in an adjoining township which has not voted to enforce said law.

It appears obvious that the enforcement or suspension of the law in the place where the cattle are actually located is controlling, and that whether the stock law is in force at the place of the residence of the owner is immaterial. This conclusion is supported by *Spitler vs. Young*, 63 Mo. 42. In that case, the owner of certain hogs resided outside of the limits of the town of Trenton. The town of Trenton had adopted an ordinance authorizing the marshall to seize and restrain any hogs found running at large in the town limits. Plaintiff's hogs had escaped from their pen outside of the town limits and were found by the marshall on the streets of Trenton. The Supreme Court made this statement as to the applicability of the ordinance of the town of Trenton to a non-resident owner, l.c. 44:

"That the plaintiff was a non-resident cannot have material effect or alter

Honorable William E. Seay

the case. It is true that the ordinance of a municipal corporation can have no extra-territorial force; but persons or property coming within the territorial limits of the corporation, come under its authority."

CONCLUSION

It is, therefore, the opinion of this office that cattle may be allowed to run at large in a township which has not voted to enforce the provisions of Chapter 270 concerning the restraint of animals from running at large, even though the owner of said cattle may be a resident of another township which has voted to enforce the law restraining animals from running at large.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul McGhee.

Very truly yours,

JOHN M. DALTON
Attorney General

PMcG:lvd