



**THE ATTORNEY GENERAL
OF TEXAS**

PRICE DANIEL
ATTORNEY GENERAL

AUSTIN, TEXAS

December 12, 1949

Hon. James H. Moore
County Attorney
Angelina County
Lufkin, Texas

Opinion No. V-961.

Re: The authority of a subdivision of a county to hold an election to repeal in that subdivision a stock law previously voted by the county as a whole.

Dear Sir:

Reference is made to your recent request which reads in part as follows:

"This County recently held an election under the provision of Article 6954 which resulted in favor of the stock law, prohibiting the running at large of the cattle named therein.

"The question now arises as to whether any subdivision of the county is entitled to call an election to repeal the law in that subdivision. Article 6963 provides for the repeal of the law throughout the whole County, but the statute is vague and indefinite as to whether only one of the subdivision of the County can vote to repeal the law in that subdivision. Therefore our question is this:

"After a County, as a whole, has voted in favor of prohibiting stock from running at large under the terms of Article 6954, can one subdivision of the County hold an election to repeal the law in that subdivision under the terms of Article 6963."

The stock law relative to prohibiting horses, mules, jacks, jennets and cattle from running at large in certain counties was passed originally as House Bill 595, Acts 26th Leg., R.S., 1899, Ch.128, p.220, and included both Articles 6954 and 6963, Vernon's Civil Statutes. However there was no provision in the original

Act whereby the stock law might be repealed in a subdivision of a county once it had been adopted in the entire county.

Once the stock law has been adopted in a county pursuant to Article 6954, supra, there was no authority to hold an election to repeal the law in any subdivision of such county until 1903 when the original Act was amended by Senate Bill 8, Acts 28th Leg., R.S., 1903, Ch.71, p.97, so as to provide for such an election. This provision is found in Article 6963, V.C.S., which provides:

"Upon the written petition of two hundred freeholders of any of the above named counties, or upon the written petition of fifty freeholders of any subdivision of the above named counties, if the law be in force in that subdivision only, the commissioners court shall be authorized and required to order an election on the date therein named to determine whether or not said law be repealed; provided, such petition be signed by at least twenty-four freeholders from each justice precinct in such county. But if this law becomes operative over any of the above named counties, as prescribed, it can in no case be repealed by any subdivision, except by a two-thirds majority of the votes cast by the freeholders of such counties, at an election held in accordance with the provisions of this chapter."
(Emphasis added)

Since the County of Angelina has adopted the stock law under the provisions of Article 6954, it is our opinion that the only way it may be repealed in a subdivision of such county is by holding an election in compliance with Article 6963. That Article provides that in no case can it be repealed in any subdivision except by a two-thirds majority of the votes cast by the freeholders of the county. Therefore it is our opinion that under the facts presented an election may not be held by a subdivision of the county to repeal the stock law in said subdivision of the county.

SUMMARY

After a county as a whole has adopted the stock law under Article 6954, Vernon's

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Civil Statutes, an election may not be called in a subdivision alone to repeal the law in that subdivision. Art.6963, V. C. S.

Yours very truly,

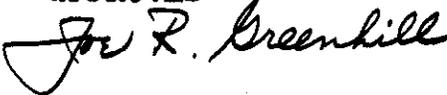
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By


Bruce Allen
Assistant

APPROVED



FIRST ASSISTANT
ATTORNEY GENERAL