



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 31, 1992

Honorable Morris Samford, Jr.
Panola County Attorney
Panola County Courthouse, Room 217-A
Carthage, Texas 75633

Letter Opinion No. 92-31

Re: Duty of cattle owner to prevent
cattle from running at large
(ID #16177)

Dear Mr. Samford:

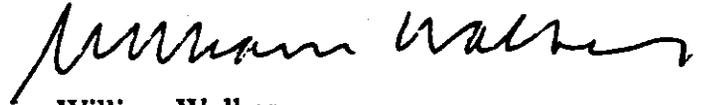
In your letter dated May 15, 1992, you ask whether a land owner in Panola County is required to keep his land fenced to prevent his cattle from running at large on a county road. Your request has been designated as ID# 16177. Research on your question reveals that Attorney General Opinion H-795 (1976), a copy of which is enclosed, addressed approximately the same question and replied that, where the stock law is in effect, a cattle owner must prevent his stock from running at large.

You inform us that Panola County adopted a local option stock law in 1952 to prohibit cattle from running at large. The effect of the local adoption of that law is to prohibit a person from "permit[ing] any animal of the class mentioned in the proclamation to run at large in the county or area in which the election was held." Agric. Code § 143.074. Attorney General Opinion H-795 determined that "since the county road is not part of the property of the cattle's owner, the cattle may, while on the county road, be said to be 'running at large,' unless under the owner's control." Attorney General Opinion H-795 also stated that "[i]n order for a violation of the stock law to occur, however, the owner of the cattle must be at fault." *See also Adams v. Gray*, 448 S.W.2d 854, 856 (Tex. Civ. App.--Houston [14th Dist.] 1969, no writ) (comparing "permits" language of civil statutes with "knowingly permits" language of criminal prohibition). The court in *Gray v. Davis*, 792 S.W.2d 856, 857 (Tex. App.--Fort Worth 1990, no writ) explained the development of fencing laws in Texas and, in *dicta*, stated that "[w]ith the advent of the stock election law, the cattle and stock owner was then required to fence in his animals." While the law does not *per se* require that the stock owner fence his cattle, it does require that he restrain them in some manner so as not to "permit" them running at large.

S U M M A R Y

Where the local option stock law is in effect, the owner of the designated class of livestock must prevent his stock from running at large in the county.

Yours very truly,

A handwritten signature in cursive script, appearing to read "William Walker".

William Walker
Assistant Attorney General
Opinion Committee