



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable John T. Hutchison
County Attorney
Lamar County
Paris, Texas

Dear Sir:

Opinion No. O-5547

Re: How the Sheriff and those whom he designates to assist him the right to kill a dog when the same is running at large in violation of the rabies quarantine?

Your request for an opinion on the above question has been received and considered.

We quote from your letter as follows:

"The Livestock Sanitary Commission of Texas, by virtue of the authority given to the Commission under the Penal Code, Article §1525B, has placed Lamar County under rabies quarantine to the effect that no dog shall be allowed to run at large in said County and has designated Bob England, Sheriff of Lamar County, as their agent in this County for the purpose of carrying out said quarantine.

"Has the Sheriff and those whom he designates to assist him the right to kill a dog when the same is running at large in violation of the aforesaid quarantine? Or is the only way to enforce this quarantine by filing criminal charges against the owner of said dogs as provided in Article §1525B of the Penal Code of the State of Texas? The Sheriff has been instructed by representatives of the Livestock Commission to kill said dogs when they are found running at large and I will, therefore, appreciate a very clear answer to question

Honorable John T. Hutchison, Page 2

¶1. Because of the seriousness of the rabies in this County among dogs that are transferring the said disease to livestock, we will appreciate a very early answer to this letter.

". . . ."

Section 20 of Article 1525B of the Penal Code of Texas reads as follows:

"It shall be the duty of the County Judge of any county in this State whenever any horse, mule, or ass in their respective county is found affected with glanders and has been quarantined by the Live Stock Sanitary Commission to appoint three disinterested parties to act as appraisers and fix the value of said animal, and report said appraisal to the said County Judge; whereupon the Commissioners' Court of said County shall pass upon said written report and pay to the owner of said animal the appraised value. The County Judge upon receipt of the report from the appraisers shall issue an order to the sheriff, deputy sheriff or constable of said county commanding him to seize said diseased animal and take it to some secluded spot or place and kill it and burn the carcass until thoroughly consumed. The said appraisers and officers shall be paid reasonable compensation for their services, out of funds provided by the County Commissioners' Court under the same provisions authorized by this Act for other expenditures by County Commissioners' Courts."

Here the method of disposing of an animal, after quarantine by the Live Stock Sanitary Commission, is prescribed.

Section 25 of Article 1525B of the Penal Code of Texas reads as follows:

"Whenever any live stock, canines or fowls are moved or permitted to move into the State of Texas in violation of any quarantine established under any provision of this Act or of any other Live Stock Sanitary Law or in violation of any provision of this Act or of any Live Stock Sanitary Law or are moved from any place in the State

of Texas in violation of any quarantine established under this Act, it shall be the duty of the Live Stock Sanitary Commission to quarantine said live stock, canines or fowls wherever found and enforce said quarantine until said live stock have been properly treated or vaccinated or tested, dipped or otherwise disposed of as may be provided for in the rules and regulations of the Live Stock Sanitary Commission. The provisions of this Section shall apply to all live stock, canines and fowls and to all diseases mentioned in this Act, including also scabies among cattle, sheep and goats."

The section last quoted provides that whenever a dog is moved from any place in the state of Texas in violation of any quarantine established under this Act, it shall be the duty of the Live Stock Sanitary Commission to quarantine said dog wherever found and enforce said quarantine until said dog has been properly treated or vaccinated or tested, dipped or otherwise disposed of as may be provided for in the rules and regulations of the Live Stock Sanitary Commission.

We fail to find any provision in the statutes authorizing the Sheriff, or the Livestock Sanitary Commission, through the Sheriff, to kill a dog running at large in violation of a rabies quarantine. We do not pass upon the right of the Sheriff, or anyone else, to kill a dog afflicted with rabies when such dog is running at large and might endanger life and property.

In answer to your second question we refer you to section 27 of Article 1525B of the Penal Code of Texas which provides for injunctive relief against anyone violating any provision of Article 1525B.

We trust this answers your questions.

Yours very truly

ATTORNEY GENERAL OF TEXAS

BY

Fred C. Chandler
Fred C. Chandler
Assistant

APPROVED MAY 12, 1945
Carl ...
ATTORNEY GENERAL

FCC:mp

APPROVED
OPINION
COMMITTEE
JTB
BY
CHAIRMAN