



OFFICES OF THE

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

JOHN C. DANFORTH
ATTORNEY GENERAL

October 8, 1974

OPINION LETTER NO. 314

Honorable Vernon E. Bruckerhoff
Representative, District 127
Route 1
St. Mary's, Missouri 63673

Dear Representative Bruckerhoff:

This is in response to your request for an opinion from this office as follows:

"Section 245.525, RSMo. 1969. Is it legal for farmers to pasture levees in a district formed by a county court at times other than the period during overflow or high water? This section of law clearly indicates that it is unlawful to run or herd livestock upon the levee during those stated conditions. However, I would like clarification as to whether or not it is legal at any time other than specifically named in Section 245.525.

"The farmers who are the landowners in the three levee districts in Boyse Brule Bottoms own the land upon which the levee is built. They would like to graze cattle on these levees at times when it would not be harmful or destructive to the vegetation thereon. They would like to know if they can utilize this land."

Section 245.525, RSMo, provides as follows:

"It shall be unlawful for the owner of any livestock to allow the same to use and run upon any levee erected under the provisions of sections 245.285 to 245.545, or to

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herd any livestock upon said levee during overflows or high water; and whenever in the judgment of the inspectors of the levee, any livestock are likely to endanger the levee under their charge, the inspector of the section of levee where such damage is threatened shall notify the owner of such livestock liable to do such damage, and require him to remove such livestock; and every such owner who, after such notice, shall neglect or refuse to confine his or her stock, and keep them off the levees, shall pay a fine not less than twenty-five dollars nor more than one hundred dollars for each and every act of disobedience to such notice, to be recovered at the suit of the inspector or his successor in office, in any court of competent jurisdiction; and the amount recovered and collected shall be paid into the county treasury to the credit of the levee fund of the district."

Such section provides that whenever in the judgment of the inspectors of the levee any livestock are likely to endanger the levee the inspector is to notify the owner of the livestock and require him to remove such livestock; and if such owner neglects or refuses to confine and keep such livestock off the levee, the owner shall pay a fine of not less than twenty-five dollars or more than one hundred dollars for each day the fine to be recovered by suit in a court of competent jurisdiction.

Under such section it appears that landowners do not have an absolute right to graze livestock at any time but that the levee inspectors can keep landowners from grazing livestock when, in their judgment, the levee may be damaged by such grazing.

Yours very truly,



JOHN C. DANFORTH
Attorney General