

1975 WL 29128 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 6, 1975

*1 The Honorable Harris P. Smith
State Senator
Box 68
Easley, South Carolina 29640

Dear Harris:

Thank you for your letter of September 25 inquiring as to the basis for the opinion issued by former Attorney General John M. Daniel on February 24, 1947.

A copy of that opinion is enclosed herewith. You will note that it contains no citations of authority but represents General Daniel's construction of the then statute.

I think that General Daniel was probably correct in excluding dogs from the statute which precludes domestic animals from running at large. The original Act was adopted on December 20, 1881, to 'provide a general stock law.' The Act, which is the predecessor of the present Section 6-311 of the 1962 Code of Laws, referred to a 'horse, mule, ass, genet, bull, ox, cow, calf or swine, sheep and goat.' Most of these animals, and perhaps all, seem to be grazing stock and I presume that that was the basis upon which General Daniel reached the conclusion that it was not applicable to dogs. This seems to be the construction given by the Legislature by its adoption of Section 6-132, which prohibits uninoculated dogs from running at large. It is probably a reasonable basis to conclude that the stock law did not embrace dogs but covered only those animals of the types specifically enumerated in that Act, and dogs do not appear to be of the same general type as Section 6-311.

Supporting authorities seem to indicate the correctness of his conclusion.

Very truly yours,

Daniel R. McLeod
Attorney General

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