



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

April 27, 1939

GERALD C. MANN  
ATTORNEY GENERAL

Honorable W. Lee O'Daniel  
Governor of Texas  
Austin, Texas

Dear Governor:

Opinion No. O-622

Re: Texas Constitution and statutes contain no provision in respect to "crimes against the Constitution."

We are in receipt of your letter of April 10th transmitting letter from the Hon. John J. McNaboe, Chairman of the Joint Legislative Committee of the New York Legislature, in which this inquiry is made:

"1. Does the Constitution or the statute laws of your State prescribe or have any provision in respect to that which I choose to designate "crimes against the constitution?"

"2. Has your State taken any action or had any investigation in respect to the enforcement or lack of enforcement of such constitutional or statutory provisions?"

Article 3 of the Texas Penal Code reads:

"In order that the system of penal law in force in this State may be complete within itself, and that no system of foreign laws, written or unwritten, may be appealed to, it is declared that no person shall be punished for any act or omission, unless the same is made a penal offense and a penalty is affixed thereto by the written law of the State."

Article 1, Section 2 of the Texas Constitution reads:

"All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient."

Article 1, Section 8 of the Texas Constitution reads:

"Every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publications of papers, investigating the conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases."

Article 1, Section 19 of the Texas Constitution reads:

"No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land."

Article 1, Section 22 of the Texas Constitution reads:

"Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on confession in open court."

Article 1, Section 27 of the Texas Constitution reads:

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"The citizens shall have the right, in a peaceable manner, to assemble together for their common good; and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance."

Article 1, Section 29 of the Texas Constitution reads:

"To guard against transgressions of the high powers herein delegated, we declare that everything in this 'Bill of Rights' is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void."

There is no statute in Texas undertaking to define crimes against the Constitution, and we, therefore, answer that the Constitution and statute laws of the State of Texas have no provisions with respect to "crimes against the Constitution."

Yours very truly

ATTORNEY GENERAL OF TEXAS

By (Signed) A. S. Rollins  
A. S. Rollins  
Assistant

ASR:PBP

APPROVED:

(Signed) Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS