



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Ross Doughty  
County Attorney  
Uvalde County  
Uvalde, Texas

Dear Sir:

Opinion No. O-4211

Re: Arrests may be made by officers  
on property of air school under  
facts stated.

Your request for opinion has been received and care-  
fully considered. We quote from your request as follows:

"The City of Uvalde, a municipal corpora-  
tion, owns some three hundred acres of land,  
which it has leased to a private corporation,  
for air school purposes. This Corporation has  
a contract with the Federal Government to train  
students, as aviators. These students are  
actually members of the United States armed  
forces.

"The question has arisen whether or not the  
local law enforcement officers have jurisdiction  
upon the premises of said air school. It is my  
opinion that they do have such jurisdiction, and  
that this would not be construed as a Federal  
Reservation under Article 5247 Vernon's Civil  
Statutes. However, I would like an expression  
from you reference to this matter."

In your letter of November 6, 1941, you further state:

"Perhaps I did not make my question clear  
enough. The Airport property is outside of the  
limits of the Municipal Corporation of Uvalde,  
and within the County of Uvalde, and my question  
is, whether or not State officers, such as the  
sheriff of Uvalde County, have the right to make  
arrests upon this property for violation of the  
Penal Code."

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Article 1, Section 8, Clause 17 of the United States Constitution provides:

"To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;--And"

Articles 5242-5248, inclusive, Revised Civil Statutes, 1925, deal with the acquisition of land in Texas by the Federal Government for Federal use.

Article 5242, supra, provides:

"The United States Government through its proper agent may purchase, acquire, hold, own, occupy and possess such lands within the limits of this State as it deems expedient and may seek to occupy and hold as sites on which to erect and maintain light houses, forts, military stations, magazines, arsenals, dock yards, custom houses, post offices and all other needful public buildings, and for the purpose of erecting and constructing locks and dams, for the straightening of streams by making cutoffs, building levees, or for the erection of any other structures or improvements that may become necessary in developing or improving the waterways, rivers and harbors of Texas and the consent of the Legislature is hereby expressly given to any such purchase or acquisition made in accordance with the provisions of this law."

Article 5247, supra, reads:

"Whenever the United States shall acquire any lands under this title, and shall desire to acquire constitutional jurisdiction over such lands for any purpose authorized herein, it shall be lawful for the Governor, in the name and in behalf of the State, to cede to the United States

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exclusive jurisdiction over any lands so acquired, when application may be made to him for that purpose, which application shall be in writing and accompanied with the proper evidence of such acquisition, duly authenticated and recorded, containing or having annexed thereto, an accurate description by metes and bounds of the lands sought to be ceded. No such cession shall ever be made except upon the express condition that this State shall retain concurrent jurisdiction with the United States over every portion of the lands so ceded, so far, that all process, civil or criminal issuing under the authority of this State or any of the courts or judicial officers thereof, may be executed by the proper officers of the State, upon any person amenable to the same within the limits of the land so ceded, in like manner and like effect as if no such cession had taken place; and such condition shall be inserted in such instrument of cession."

In the case of *Curry v. State*, (Court of Criminal Appeals), 12 S. W. (2d) 796, the court, in passing upon whether a State court had jurisdiction over an offense committed within the boundaries of a military reservation, said:

" . . . Under the language of the United States Constitution quoted above, a purchase of land with the consent of the Legislature will confer the exclusive right to legislate by the United States government over it, which necessarily carries with it the privilege and right of exclusive jurisdiction of its courts. 16 C. J. 222; *United States v. Tucker* (D. C.) 122 F. 518. Authorities, supra; *Ft. Leavenworth R. Co. v. Lowe*, 114 U. S. 525; 5 S. Ct. 995, 29 L. Ed. 264; *In re Kelly* (C.C.) 71 F. 545, 549; *United States v. Holt* (C. C.) 168 F. 141, judgment affirmed 218 U. S. 245, 31 S. Ct. 2, 54 L. Ed. 1021, 20 Ann. Cas. 1136; see annotations to above clause of United States Constitution, vol. 10, U. S. Compiled Statutes 1916, beginning at page 13514, where full collation of authorities will be found.

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"All authorities uniformly hold that the United States government has sovereign authority and exclusive jurisdiction over all lands acquired and used by it for one of the purposes mentioned in the United States Constitution, in all cases where jurisdiction has been expressly ceded by the state, or where same exists by necessary implication arising from consent of the state to the purchase of such land. In either of such cases the right to prosecute and punish for crime exists only in the United States government. . . ."

Opinion No. C-3318 of this department holds that if a deed of cession of unlimited jurisdiction over an Army camp has been executed by the Governor of the State of Texas to the United States Government as provided by Articles 5242 to 5247, inclusive, Revised Civil Statutes, 1925, that the Federal Government would have complete and exclusive legislative control and jurisdiction over offenses committed on said military grounds and that the sale of beer by the Army canteen to soldiers and such grounds would not be amenable to the laws of the State of Texas. This opinion further holds that if such deed of cession had not been executed in the manner required by the statutes, the sale of beer on such military grounds would be a violation of the Texas Liquor Control Act. We enclose herewith a copy of said opinion for your information.

You do not state in your letter whether or not the Governor of the State of Texas has executed a deed of cession of jurisdiction over said property to the Federal Government. It seems readily apparent from your letters, however, that this has not been done.

We wish to call your particular attention to the following portion of Article 5247, supra:

" . . . No such cession shall ever be made except upon the express condition that this state shall retain concurrent jurisdiction with the United States over every portion of the lands so ceded, so far, that all process, civil or criminal issuing under the authority of this state or any of the courts or judicial officers thereof, may be executed by the proper officers of the State, upon any person amenable to the same

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within the limits of the land so ceded, in like manner and like effect as if no such cession had taken place; and such condition shall be inserted in such instrument of cession."

It is apparent from the above quoted section that sheriffs and other peace officers have the right to serve and execute criminal process, such as warrants of arrest, on property where jurisdiction has been ceded to the Federal Government under Article 5247, supra.

We answer your question as follows:

1. The sheriff or other peace officer may execute a lawful warrant of arrest upon a person on the grounds and premises of said airport for an offense committed off of said premises, regardless of whether or not a proper deed of cession of jurisdiction has been made to the Federal Government.

2. If a proper deed of cession has been made to the Federal Government the sheriff or other peace officer may not lawfully arrest a person for an offense committed on the grounds and premises of said airport.

3. If no proper deed of cession has been made as above outlined, the sheriff or other peace officers may make lawful arrests for offenses committed on the grounds and premises of said airport.

Very truly yours

ATTORNEY GENERAL OF TEXAS

APPROVED NOV 14, 1941

*Ross Doughty*

FIRST ASSISTANT  
ATTORNEY GENERAL

By

*Wm. J. Fanning*

Wm. J. Fanning  
Assistant

WJF:CO

ENCLOSURE

