



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

GROVER SELLERS
ATTORNEY GENERAL

Honorable A. W. Meadows, Director
Texas Aeronautics Commission
Austin, Texas

Opinion No. 0-7533

Re: Whether seaplanes are prohibited from landing on public waters and artificial inland lakes

Dear Sir:

Please refer to your letter of December 2, 1946, requesting the following opinion from this department:

"Will you please furnish this Commission with an opinion as to whether or not there are any State laws prohibiting seaplanes from landing on public waters or artificial inland lakes such as Possum Kingdom Lake, Buchanan, Lake Texhoma and any of the other lakes built and controlled by the different authorities.

"Also, please give us your opinion as to whether or not county laws would affect the use of these bodies of water as landing facilities."

In answer to your first inquiry, you are advised that we have carefully searched the statutes of this State and find no act of the Legislature prohibiting in express terms seaplanes from landing on public bodies of water.

While the factual circumstances giving rise to your inquiry are not detailed and it would be idle to speculate on situations that might arise, we do deem it pertinent to advise that there are statutes of this State which might conceivably be violated by the act of landing a seaplane on a public body of water. For example, we call your attention to Chapter 285 of the Acts of the Regular Session of the 48th Legislature, 1943, Article 698b,

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Vernon's Annotated Penal Code, which makes it unlawful to "pollute" any public body of surface water of this State. This statute defines the term "pollute" as,

". . . permitting to reach or be introduced into any public body of surface water of this State any substance, material or thing in such quantity that the said water is thereby rendered unfit for one or more of the beneficial uses for which such water was fit or suitable prior to the introduction of such substance, material or thing, or is thereby rendered harmful to public health, game birds or game animals, fish or other edible aquatic animals, or endangers any wharf, or endangers or hinders the operation of any boat or renders insanitary or unclean any bathing beach." (Emphasis Supplied)

While we do not believe you had reference to the "pollution" statute in your opinion request, it is conceivable that the landing of a seaplane may, under the facts of a particular case, "endanger or hinder the operation of any boat".

This department has not been advised whether or not any of the pertinent lake authorities, such as the Brazos River Conservation and Reclamation District or the Lower Colorado River Authority, have any rules or regulations relative to the use of lakes under the control of such authorities by seaplanes. It is also conceivable that the State Parks Board, the State Game, Fish and Oyster Commission, or agencies of the Federal Government, may have rules and regulations on the subject. Should you find such to be the case, we should be glad to give you the benefit of our opinion in respect thereto.

In answer to your second question, you are advised that there are no "county laws" as distinguished from acts of the Legislature in this State, and that we have been unable to find any "local or special" laws of the Legislature pertinent to your inquiry.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

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JDS:jt

