



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

WALD C. MANN
ATTORNEY GENERAL

April 18, 1939

Honorable G. G. Roane
County Attorney
Fort Bend County
Richmond, Texas

Dear Sir:

Opinion No. O-379
Re: Authority of a justice of
the peace to appoint a de-
puty or special constable

This will acknowledge receipt of your letter of April 15, 1939, in which you request an opinion of this Department as to whether or not a justice of peace has the authority to appoint a deputy constable without a time limit on such appointment with such appointee being clothed with all the rights, privileges and duties usually incident to such an office.

Article 6878, Revised Civil Statutes of Texas, 1925, provides for the election of a constable in each justice precinct.

Article 6879, Revised Civil Statutes of Texas, 1925, provides for the appointment of deputy constables, and provides that in justice precincts which do not contain a city of 8,000 or more inhabitants, such constable is limited to the appointment of one deputy constable.

Article 102, Code of Criminal Procedure of Texas, 1925, gives any magistrate of the State the power to appoint a sufficient number of constables as is required to suppress riot, unlawful assemblies and other disturbances at elections. Such Article reads as follows:

"To suppress riots, unlawful assemblies and other disturbances at elections, any magistrate may appoint a sufficient number of special constables. Such appointments shall be made to each special constable, shall be in writing, dated and signed by the magistrate, and shall recite the purposes for which such appointment is

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made, and the length of time it is to continue. Before the same is delivered to such special constable, he shall take an oath before the magistrate to suppress, by lawful means, all riots, unlawful assemblies and breaches of the peace of which he may receive information, and to act impartially between all parties and persons interested in the result of the election."

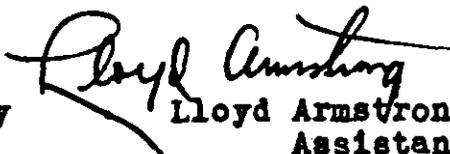
It will be noted that such special appointment "shall be in writing, dated and signed by the magistrate, and shall recite the purposes for which such appointment is made, and the length of time it is to continue." It is clear, therefore, that such an appointment as authorized by Article 102, supra, limits such an appointment to the purposes therein enumerated. There are no other statutes clothing a justice of the peace with authority to appoint deputy or special constables.

It is, therefore, the opinion of this Department and you are so advised, that a justice of the peace has no authority to appoint a deputy or special constable for any other purpose than for the suppression of riots, unlawful assemblies or other disturbances at elections, and that such an appointment must be made strictly in accordance with Article 102, Code of Criminal Procedure of Texas, 1925.

Trusting that this satisfactorily answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By  Lloyd Armstrong
Assistant

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APPROVED:

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ATTORNEY GENERAL OF TEXAS