



**OFFICE OF
THE ATTORNEY GENERAL
AUSTIN, TEXAS**

PRICE DANIEL
ATTORNEY GENERAL

March 6, 1947

Hon. Cecil Storey, Chairman
Criminal Jurisprudence Committee
House of Representatives
Austin, Texas Opinion No. V-72

Re: Validity of House Bill
No. 220 50th Legisla-
ture.

Dear Sir:

You request an official opinion on the constitutional-ity of House Bill No. 220, which bill itself is attached to your request. This bill is short, and we reproduce it in full as follows:

"A BILL

"TO BE ENTITLED

"AN ACT to amend Title 5, Chapter 1, of the Penal Code of Texas by adding thereto another article to be known as Article 178b, and making bribery of officials, players and participants in athletic contests a crime.

"BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

"Section 1. That Title 5, Chapter 1, of the Penal Code of Texas, be amended by adding thereto another article to be known as Article 178b, and to read as follows:

"Article 178b. Whoever shall bribe or attempt to bribe any player or participant in any athletic contest, or any official in any athletic contest, whose action or nonaction might effect the result of such contest, with the intent to influence or change the result or outcome of such athletic contest, shall be confined in the penitentiary for not less than two nor more than five years."

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We think there is great doubt as to the validity of House Bill No. 220 in its present form for the following reasons.

The bill although creating the offense of bribery, does not define the term "bribe" or "bribery," but makes the same a part of Title 5, Chapter 1, dealing with bribery.

In this chapter, the term "bribe," is defined, but the definition there as given would not include the persons mentioned in your bill, that is, the "officials, players and participants" in athletic contests, because such persons do not perform "any duty, public or official," as do the persons specifically named in Article 177 of that chapter. The bill, therefore, if enacted into law, might be stricken down for want of definiteness.

We suggest that the preferable way would be to amend the bill - body and title - and create a new offense in which the word "bribe" is specifically defined.

Such a bill as is suggested, if passed, would in our opinion be a valid law.

We return the bill herewith.

SUMMARY

1. House Bill No. 220 of the 50th Legislature proposing a new Article to be added to Title 5, Chapter I, of the Penal Code to be numbered Article 178b, dealing with officials, players, and participants in athletic contests is probably unconstitutional.

2. Such a bill proposing a new and independent act defining the word "bribe," would be constitutional, and if passed would be valid law.

Yours very truly

APPROVED: Mar. 6, 1947

Price Daniel
ATTORNEY GENERAL

OS/jbc/lh

ATTORNEY GENERAL OF TEXAS

By

Ocie Speer
Ocie Speer
Assistant