



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**JOHN BEN SHEPPERD  
ATTORNEY GENERAL**

February 25, 1955

Hon. Ben A. Glusing, Chairman  
State Affairs Committee  
House of Representatives  
Austin, Texas

Opinion No. MS-175

Re: Constitutionality of House Bill  
No. 215 which establishes two sub-  
divisions to Article 7428, V.C.S.,  
and further defines a conspiracy  
in restraint of trade under that  
article.

Dear Mr. Glusing:

You have requested the opinion of this office as to the constitutionality of pending House Bill No. 215, which further defines a conspiracy under Article 7428, Vernon's Civil Statutes, by establishing two additional subdivisions thereto.

After careful study we find no constitutional objection to the body of this bill. Such Acts are upheld by a greater weight of authority when, as here, the avowed purpose is to prevent monopolies and unreasonable restraint of trade. See the exhaustive discussion of authorities in 118 A.L.R. 486, and 128 A.L.R. 1127.

Although this opinion is confined to constitutionality, may we respectfully point out that it is doubtful, under the laws as they presently stand with regard to conspiracies and combinations, that these two provisions will be consistent with the present definitions in Article 7428. House Bill 215 makes the acts of a single person, firm, or corporation a "conspiracy," whereas the three presently existing sections of Article 7428 require two or more persons. We observe, however, that this objection has nothing to do with constitutionality.

Yours very truly,

JOHN BEN SHEPPERD  
Attorney General

By

J. Fred Jones  
Assistant

JFJ:wb:egw