



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

May 20, 1955

Hon. Allan Shivers
Governor of Texas
Austin, Texas

Opinion No. MS-216

Re: Constitutionality of Senate Bill
85, 54th Legislature, exempting
certain organizations from ad
valorem taxes on real estate.

Dear Governor Shivers:

You request the opinion of this office upon the constitutionality of Senate Bill 85, 54th Legislature, a copy of which is attached to your request.

We have heretofore rendered Opinion MS-181 holding constitutional that part of the bill exempting from taxation the American Legion and other veterans' organizations enumerated in the bill, a copy of which is herewith enclosed.

The bill which we considered in writing our former opinion did not contain the following:

" . . . or any non-profit organization chartered or incorporated under the Texas statutes for the purpose of preserving historical buildings, sites and landmarks, not leased or otherwise used with a view to profit . . ."

This opinion will, therefore, be directed to this portion of the bill. Property to be exempt from taxation in this state must be only such as the Constitution expressly exempts or which may be by the legislature exempted under the authority of the Constitution. The Constitution does not expressly exempt the property here under consideration. We must, therefore, determine if the legislature has the authority under the Constitution to accord an exemption from taxation to this property. Section 2 of Article VIII of the Constitution provides in part as follows:

"the legislature MAY . . . exempt from taxation . . . property used exclusively and reasonably necessary in conducting any association engaged in promoting the religious, educational and physical development of boys, girls, young men or young women operating under a state or National organization of like character;" (Emphasis supplied.)

This portion of the Constitution was adopted at an election on November 6, 1928. It seems obvious that this amendment to the Constitution was prompted by the decision in City of San Antonio v. Y.M.C.A., 285 S.W. 844 (C.C.A. 1926, writ of error refused) wherein it was held that the Y.M.C.A. taxpayer sought to be exempted could not qualify under Section 2, Article VIII of the Constitution as being either an "actual place of religious worship" or "an institution of purely public charity" but instead was devoted merely to "furthering religious work."

We are of the opinion that organizations chartered or incorporated under the Texas statutes for the purpose of preserving historical buildings, sites and landmarks not leased or otherwise used with a view to profit may be exempted by the legislature under the foregoing provision of Section 2 of Article VIII of the Constitution. Such organizations organized for the purpose of preserving to the youth of this state historical shrines, buildings and landmarks have a predominate educational purpose.

We, therefore, hold that Senate Bill 85, 54th Legislature, is constitutional.

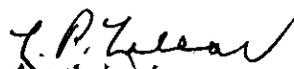
Yours very truly,

APPROVED:

JOHN BEN SHEPPERD
Attorney General

J. C. Davis, Jr.
Reviewer

By


Assistant

J. Arthur Sandlin
Reviewer

Robert S. Trotti
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LPL:rn