



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**PRICE DANIEL  
ATTORNEY GENERAL**

**March 8, 1950**

**Hon. W. E. Allen  
County Attorney  
Coleman County  
Coleman, Texas**

**Opinion No. V-1018.**

**Re: The validity of H.B.  
93, 51st Leg., rela-  
tive to establishment  
of juvenile courts, in  
view of conflicts be-  
tween the caption and  
the body of the Act.**

**Dear Sir:**

**In your request for an opinion you ask:**

**Are the provisions in the caption of  
H.B.93 of the Acts of the 51st Leg., 1949,  
requiring the designation of the juvenile  
court by the District Judges and the Coun-  
ty Judge so contradictory to the provisions  
in the Act itself requiring the designation  
by the District Judges that such portion of  
the Act is invalid?**

**Coleman County has no juvenile board,  
but has two district courts, namely, the  
35th and 119th District Courts, and there-  
fore comes within the quoted portions of  
this Act.**

**Section 4 of Senate Bill 44, Acts 48th Leg.,  
1943, ch.204, p.313, provides in part as follows:**

**"Sec. 4. Establishment of Juvenile  
Courts. There is hereby established as  
follows in each county of the state a  
court of record to be known as the Juve-  
nile Court, having such jurisdiction as  
may be necessary to carry out the provi-  
sions of this Act.**

**"In counties having juvenile boards,  
such boards may designate the County Court  
or one or more of the District Courts to  
be the Juvenile Court or Courts for such  
county, and such designation may be changed**

from time to time by such juvenile boards. In all other counties the District Court or the County Court shall be the Juvenile Court as agreed between the judges of each respective courts, but until such time such County Court and District Court shall have concurrent jurisdiction in cases of children coming within the terms of this Act."

Section 4 of the above Act was amended by Senate Bill No.63, Acts 49th Leg., R.S. 1945, ch.35, p.52, which reads as follows:

"Sec. 4. Establishment of Juvenile Courts. There is hereby established as follows, in each county of the state, a court of record to be known as the Juvenile Court, having such jurisdiction as may be necessary to carry out the provisions of this Act.

"In counties having juvenile boards, such boards may designate the County Court or one or more of the District Courts or Criminal District Courts to be the Juvenile Court or Courts for such county, and such designation may be changed from time to time by such juvenile boards. In all other counties the District Court or the County Court shall be the Juvenile Court as agreed between the judges of such respective courts, but until such time such County Court and District Court shall have concurrent jurisdiction in cases of children coming within the terms of this Act.

"Said Criminal District Courts and the judges thereof shall have the same jurisdiction, powers, authority and duties as is now or may be conferred upon District Courts in regard to such children.

"It is provided, however, that the jurisdiction, powers and duties thus conferred and imposed upon the established courts hereunder are super-added jurisdictions, powers and duties, it being the intention of the Legislature not to create hereby another office. Appeals from judgments of

such Criminal District Courts shall be taken to the proper Court of Civil Appeals."

The pertinent portion of the caption and of the body of House Bill 93, Acts 51st Leg., R.S. 1949, ch.368, p.702, are as follows:

"An Act amending Section 4 of Senate Bill No. 44, Acts of the Forty-eighth Legislature, 1943, page 313, Chapter 204, by providing that . . . in all counties having two (2) or more district courts, but no juvenile board, the judges of the district courts and the county court of such counties shall designate one (1) of the district courts as the Juvenile Court for said county, . . . (Emphasis added throughout).

"Section 1. That Section 4 of Chapter 204, Acts of the Forty-eighth Legislature, 1943, be, and the same is hereby amended so as to hereafter read as follows:

"Section 4. There is hereby established as follows in each county of the State a court of record to be known as the Juvenile Court, having such jurisdictions as may be necessary to carry out the provisions of this Act.

". . . in all other counties having two (2) or more district courts, or one (1) or more district courts and one (1) or more criminal district courts, the judges of such courts shall designate one (1) of such district courts or criminal district courts as the Juvenile Court of such county. . ."

Section 35 of Article III of the Texas Constitution provides as follows:

"No bill, (except general appropriation bills, which may embrace the various subject and accounts, for and on account of which moneys are appropriated) shall contain more than one subject, which shall be expressed in its title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be

void only as to so much thereof, as shall not be so expressed."

As stated in the case of De Silvia v. State, 98 Tex.Crim. 634, 229 S.W. 542 (1921):

"One object of the constitutional provision mentioned is 'to fairly apprise the people, through such publication of legislative proceedings as is usually made, of the subjects of legislation that are being considered, in order that they may have opportunity of being heard thereon, by petition or otherwise, if they shall so desire.' Cooley's Const. Limitation (7th Ed.) p.205.

"The courts, in construing the provisions in connection with legislative acts, have, throughout the history of the state, been liberal toward the validity of the act. Notwithstanding this practice, they recognized that the provision of the Constitution is mandatory, and that, when viewing the act in the light of the liberal policy mentioned, if it cannot be fairly said that the caption is not misleading, the law or the part of the law which is variant from the title of the act must give way. . . ."

In the case of Landrum v. Centennial Rural High School District No. 2, 134 S.W.2d 353 (Tex.Civ.App. 1939, error dismiss., judgment correct.) it is stated:

"Since the title or caption of the 1937 Act declared that the legislature intended to amend Sec. 12 of the 1925 Act so as to prohibit special tax assessors, equalization boards, and tax collectors in certain counties, it cannot affect counties not included, and is invalid as not embracing subject in its title, so far as the body of the Act changed the method of holding school bond elections from the method prescribed in the 1927 act. No rule is better established than the one that where a title or caption of an act specifies the particular field of the amendment, and that it is to cover or state a particular purpose to make a change in a prior statute,

the amendment is limited to the making of the specific change designated in its title, and precludes any additional, contrary, or different amendment than that stated in the title."

Also in the case of Prætorians v. State, 184 S.W.2d 299 (Tex.Civ.App.1944, affirmed 143 Tex. 565, 186 S.W.2d 973, (1945), it is stated:

"The purposes and essential requirements of the caption or title of a legislative act, in relation to the provisions of the body of the act, have been frequently reviewed by the courts and are now well settled. They are set forth in extenso in 39 Texas Jur., §§ 47 and 48, pp. 100-102. A somewhat stricter rule of conformity of the title to the subject matter legislated upon in the body of the act is applied to amendments than to titles of original acts."

In the case of Gulf Insurance Co. v. James, 143 Tex. 424, 185 S.W.2d 956 (1945), the late Chief Justice Alexander of the Supreme Court said:

"We recognize the well-established rule that liberal construction will be indulged in order to hold that the title of an Act conforms to the requirements of the Constitution. 39 Tex.Jur. 95. But the provision of the Constitution requiring the title to express the subject of the Act cannot be entirely ignored. Cannon v. Hemphill, 7 Tex. 184, 208. The rule of liberal construction will not be followed to the extent that it will relieve the legislature of the necessity of disclosing the real subject of the Act in the title thereof, nor will it be extended so as to hold Acts valid, the titles of which are deceptive or misleading as to the real contents of the Acts."

The caption of the Act in question provides that under certain circumstances the district judges and the county judge shall designate one of the district courts as the juvenile court of the county. The body of the Act provides that the district judges and the criminal district judges shall designate one of

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such courts as the juvenile court.

We think unquestionably that the caption is at variance with the body of the Act and is misleading. Therefore it is our opinion that the particular portion of the Act in question contravenes Section 35, Article III of the Texas Constitution and is void. You are further advised that in this particular respect the juvenile court of your county should continue to operate under the provisions of Senate Bill 63, Acts 49th Leg., R.S. 1945, ch.35, p.52.

It is expressly understood that we are only passing on the constitutionality of that part of the Act inquired about in your request.

SUMMARY

Since that portion of the caption of House Bill 93, Acts of the 51st Legislature, 1949, which deals with the establishment of juvenile courts in counties having two (2) or more district courts but no juvenile board, is at variance with the body of the Act, it is unconstitutional, being in violation of Section 35, Article III of the Texas Constitution. Gulf Insurance Co. v. James, 143 Tex. 424, 185 S.W.2d 966 (1945); Landrum v. Centennial Rural High School Dist. No. 2, 134 S.W.2d 353 (Tex.Civ.App.1939, error dismissed, judgment reversed.)

The juvenile court of Coleman County should continue to operate under the provisions of Senate Bill 63, Acts 49th Leg., R.S. 1945, ch.35, p.52.

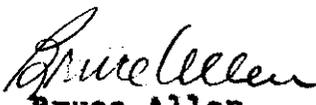
Yours very truly,

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