



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

April 30, 1957

Overruled By:

# JM-623  
IN PART

Honorable M. B. Morgan  
Commissioner, Bureau of  
Labor Statistics  
Austin, Texas.

OPINION NO. WW-114

Re: Does the opinion of the Court in St. Louis Southwestern Railway Company v. Griffin, 106 Tex. 477, 171 S.W. 703, (1914) invalidate Article 5196, Vernon's Civil Statutes (Blacklisting Law) in its entirety, or is the opinion limited to a holding on the validity of Section 3 of Article 5196 alone?

Dear Mr. Morgan:

This Opinion is in response to your letter of April 11, 1957, concerning the present status of Article 5196, Vernon's Civil Statutes. In this request you ask a question which is substantially as follows:

Does the opinion of the Supreme Court of Texas in St. Louis Southwestern Railway Company v. Griffin, 106 Tex. 477, 171 S.W. 703 (1914) invalidate all of Article 5196, Vernon's Civil Statutes, or was the opinion limited to a holding on Section 3 of the Article with the result that the remainder of the Act is constitutional?

The Supreme Court of Texas in the Griffin case was interpreting the provisions of a prior Act, Article 594, Revised Civil Statutes, 1911. Attorney General's Opinion No. 0-3562, from which you quoted in your request, sets out the history of the present form of the Act, Article 5196, Vernon's Civil Statutes; and points out that this latter Article is virtually identical in language to that of Article 594.

The Court, after finding the Act unconstitutional because of provisions of Section 3, then proceeds to set out other grounds to support their conclusion. In doing so, it sets out an analysis of other sections of the Act, and points out within the provisions of these other sections

additional grounds for holding the Act unconstitutional. It then states, "Beyond controversy, the Act of the Legislature is void, unless it can be sustained as an exercise of the police power". The opinion then goes on to hold that the Act cannot be sustained as an exercise of the police power, and is void. The concluding language of the Court is as follows:

"The subject of legislation in this statute and its various provisions, as stated above, are purely personal as between the employee and the corporation and do not directly affect the public, in health, safety, comfort, convenience, or otherwise. The Act is in violation of the Constitution of this State and of the United States, and is void."

It seems clear to us that the Supreme Court in the Griffin case, was definitely not limiting its holding to an interpretation of Section 3 of Article 59<sup>4</sup>, R.C.S. 1911, but, to the contrary, was quite definite that it should declare the act void in its entirety.

As pointed out in Attorney General's Opinion No.0-3562, though the Court in the Griffin case was ruling on a prior law, the acts are so similar that the Court's opinion may also be cited as controlling on the present form of the Act, Article 5196.

#### SUMMARY

The opinion of the court in St. Louis Southwestern Railway Co. v. Griffin, 106 Tex. 477; 171 S.W.703 (1914) invalidated the entire act which is now Article 5196, V.C.S.

Very truly yours,

WILL WILSON  
Attorney General of Texas

By *Wayland C. Rivers Jr.*  
Wayland C. Rivers, Jr.  
Assistant

WCR:jl:rh

APPROVED:

OPINION COMMITTEE:

H. Grady Chandler, Chairman

W. V. Geppert

Edwin P. Horner

Wm. R. Hemphill

REVIEWED FOR THE ATTORNEY GENERAL  
BY

Geo. P. Blackburn