



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

May 28, 1953

Hon. Allan Shivers
Governor of Texas
Austin, Texas

Letter Opinion MS-46

Re: The validity of
House Bill 322, an
act repealing the
tax on terminal com-
panies under Article
7072, R.C.S.

Dear Governor:

You request the opinion of this office upon the matter contained in your letter of May 26 which is as follows:

"Attached is copy of House Bill No. 322, original of which was received in my office on May 18, 1953.

"I shall appreciate having your opinion as to whether Article 7072 is valid. Also, is the State now receiving revenue under Article 7072, R.C.S., 1925."

The gross receipts tax upon terminal companies was first imposed by the 30th Legislature, Acts of the First Called Session, 1907, page 479, and codified as Article 7072 of the Revised Civil Statutes, 1925, which corresponds with Article 7072, V.C.S. Under the terms of this Act, companies, whether corporate or individually owned, domestic or foreign, owning, controlling, managing or leasing any terminal companies or any railroad doing a terminal business are required under Article 7072 to make quarterly reports to the State Comptroller on the first day of January, April, July and October, showing gross receipts from all sources whatever within this State during the preceding quarter and the average market value thereof during said quarter.

In the case of Houston Belt & Terminal Railway Company v. State, 108 Tex. 314, 192 S.W. 1054 (1917), the court held that the tax levied by this article,

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measured by the gross receipts of the terminal company in addition to its property and franchise tax, to be invalid and a burden on interstate commerce. This decision of the Supreme Court was handed down in 1917, and, although the article was carried forward in the 1925 codification as originally enacted in 1907, this adds nothing to its validity, the Supreme Court of the State having declared the tax levied by the act invalid as a burden on interstate commerce.

No taxes, insofar as we have been able to ascertain, have been collected under said statute since 1917, as indeed none could be legally collected. The Comptroller of Public Accounts advises us that no taxes have been collected under this statute since such taxes were declared invalid by the Supreme Court in 1917.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By

L. P. Lollar
Assistant

LPL:mg:lm