44 Phil. 437

[G.R. No. 18260. January 27, 1923]

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. NORBERTO PAREL, DEFENDANT AND APPELLANT.

D E C I S I O N

OSTRAND, J.:

Upon an information filed nearly two years after the commission of the offense, the defendant was found guilty of having, as an election inspector, aided illiterate voters in preparing their ballots at the general election held June 3, 1919, without being accompanied by an election inspector of the opposite political party and was sentenced to suffer imprisonment for the term of three months under section 2639 of the Administrative Code, which makes an election official "who wilfully declines or fails to perform any duty or obligation imposed by the Election Law" criminally liable and provides a penalty therefor of imprisonment for not less than one month and not more than one year or a fine of not less than P200 and not more than P500 or both.

The case is now before us upon a motion to quash the proceedings on the ground that the action is barred through the retroactive effect of section 71 of Act No. 3030, which provides for a period of prescription of one year for offenses resulting from that Act.

The Election Law is contained in Chapter 18 and parts of Chapter 65 of the Administrative Code. Act No. 3030 is entitled "An Act to amend certain sections and parts of sections of chapter eighteen, known as the Election Law, and chapter sixty-five, on penalties for violations of certain administrative laws, of Act Numbered Twenty-seven hundred and eleven, entitled 'An Act amending the Administrative Code,' to make more effective the provisions and purposes of said Election Law, and for other purposes." All of its sections, except the last two,

are by their terms amendatory of the corresponding sections of the Election I aw as embodied in the Administrative Code. The last two sections of the Act read:

> "SEC. 71. Offenses resulting from violations of this Act shall prescribe one year after their commission.
>
> "SEC. 72. This Act shall take effect on its approval."

Previously to the enactment of Act No. 3030 there was no limitation of action for violations of the Election Law and the question presented for our consideration is whether section 71 of the later Act is retroactive to the extent of making the period of limitation or prescription there provided for applicable to violations of the Election Law committed before March 9, 1922, the date upon which the later, or amendatory, Act No. 3030 went into effect.

In most states of the American Union the rule prevails that a statute of limitations of criminal actions is on a parity with a similar statute for civil actions and has no retroactive effect unless the statute itself expressly so provides, and practically all of the authorities cited in support of the theory that such is also the rule here, are upon that point. As from our point of view the rule stated does not obtain in the Philippine Islands, these authorities have, in our opinion, no bearing whatever upon the question here at issue and we shall therefore devote neither time nor space to their further discussion.

In our opinion, the determination of the present case clearly hinges upon the construction of article 22 of the Penal Code, which reads as follows:

> "Penal laws shall have a retroactive effect in so far as they favor the person guilty of a felony or misdemeanor, although at the time of the publication of such laws a final sentence has been pronounced and the convict is serving same."

This article is of Spanish origin, is based on Latin principles, and it seems, indeed, too obvious for argument that we, in its interpretation, must

have recourse to Spanish or Latin jurisprudence. In the case of United States *vs*. Cuna (12 Phil., 241), this court held that "neither English nor American common law is in force in these Islands, nor are the doctrines derived therefrom binding upon our courts, save only in so far as they are founded on sound principles applicable to local conditions, and are not in conflict with existing law." In that case the Spanish doctrine invoked was more unfavorable to the accused than the common law rule, but was, nevertheless, adopted by the court. In the present case, the Spanish doctrine is more favorable to the accused and considering the well-known principle that penal laws are to be construed most liberally in favor of the accused, we have stronger reasons here than existed in the Cuna case for rejecting the American doctrine as to the irretroactivity of penal statutes. Both consistency and sound legal principles, therefore, demand that we, in this case, seek our precedents in Latin rather than in American jurisprudence.

For a long period it has been the settled doctrine in countries whose criminal laws are based on the Latin system that such laws are retroactive in so far as they favor the accused. (Fiore, *Irretroactividad e Interpretacion de las Leyes*, p. 401.) In Spain and in the Philippine Islands this doctrine is, as we have seen, re-inforced by statutory enactment, and is even made applicable to cases where "final sentence has been pronounced and the convict is serving same."

But it is argued (1) that the Election Law is a special law to which the provisions of article 22 of the Penal Code are not applicable; (2) that the subject of prescription or limitation of actions falls within the domain of adjective law and cannot be considered penal law within the meaning of article 22, and (3) that the period of prescription provided for in section 71 of Act No. 3030 is, by the terms of that section, limited to offenses resulting from the violation of that Act and does not affect offenses made punishable by prior legislation.

(1) The first point mentioned must be considered settled by previous decisions both of this court and of the supreme court of Spain. In the case of United States *vs*. Hocbo (12 Phil., 304), article 22 was applied to Act No. 1773 of the Philippine Commission; in United States *vs*. Parrone (24 Phil., 29) and United States *vs*. Almencion (25 Phil., 648), to Acts Nos.

1189 and 2126; and in sentences of the supreme court of Spain of July 13, 1889 and April 26, 1892, it was held applicable to the penal provisions in the Spanish Electoral Law. All of these decisions are well supported both by reason and by authorities and must now be regarded as the law of the land upon this subject.

(2) In regard to the second point that the subject of prescription of penalties and of penal actions pertains to remedial and not to substantive law, it is to be observed that in the Spanish legal system, provisions for limitation or prescription of actions are invariably classified as substantive and not as remedial law; we thus find the provisions for the prescription of criminal actions in the Penal Code and not in the *Ley de Enjuiciamiento Criminal*. This is in reality a more logical classification than the one obtaining in the American criminal law. In criminal cases prescription is not, strictly speaking, a matter of procedure; it bars or cuts off the right to punish the crime and, consequently, goes directly to the substance of the action. We are confident that no Spanish lawyer will be found to assert that criminal procedure is not a branch of criminal or penal law. Moreover, we might simply call attention to the fact that in the case of United States *vs*. Hocbo, *supra*, article 22 of the Penal Code was applied to what, in the American law, would be considered a remedial provision, and there let the matter rest. But it is argued that the decision in the case of United States *vs*. Hocbo, *supra*, is erroneous and that the term "Leyes Penales" employed in article 22 of the Penal Code has reference merely to laws providing for penalties, this contention being based largely on the fact that the chapter in which article 22 is found bears the title or heading "Penalties in General," and we shall therefore enter more fully into the discussion of this point, especially as it, in our opinion, is the turning point of the case.

It may be conceded that if the arrangement of the various subjects or topics contained in the Code were more logical or rigid, there might be some force in the contention that the retroactivity provided for in article 22 relates only to penalties, and not to prescription, in criminal cases. But examining the chapter embracing article 22, we find that of the four articles therein contained, only one, article 24, relates expressly to penalties; article 21 provides that no crime shall be punishable by any penalty not prescribed by law prior to its commission and is, in a certain sense, a limitation upon criminal actions;

article 23 deals with the effect of pardons and with civil liability. Under these circumstances, it is difficult to find room for the conclusion that the intermediate article 22 must relate only to penalties and not to limitations upon the imposing of penalties or upon the bringing of penal actions.

Fiore, whose work on the irretroactivity of statutes is regarded as a legal classic in Latin countries, in discussing the question under consideration, says:

> "Indeed when the new law reduces the period of prescription of criminal actions or establishes easier requirements to give the prescription effect, it is evident that the reduction conceded by the new law implies an acknowledgment on the part of the sovereign power that the more severe requirements of the former law were unjust in regard to the essence of the criminal action. Consequently, if the sovereign power should enforce its right under the former law it would be guilty of an inconsistency in view of its implied admission that the old law was too severe and consequently unjust. The necessity therefore of applying the less severe new law rests upon the principle that the sovereign power cannot exercise its right to punish except only within those limits of justice which, that sovereign power has established as being just and equitable at the time of exercising that right.
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> "On the other hand, when the new prescriptive law is more rigid than the former, whether as to the admissibility of the prescription itself or as to the conditions and time required for its effectiveness, care must be taken that that law is not applied to crimes committed before its enactment, not because the accused has acquired any right so to prevent its application, but for the reasons that we have already stated. What right can the accused have to endeavor to prevent that which the sovereign power has the right to do in order to preserve public order? Let us not talk therefore of vested rights of the accused, but let us say it, and with emphasis, that the reason for the irretroactivity of the more severe law is found in the principle that the sovereign power cannot, without committing an injustice, apply the more severe prescriptive provisions; and those provisions cannot be justly applied if they

> have not been previously promulgated. And the right itself to punish does not arise except by virtue of a law promulgated and in force at the time of the commission of the crime. The more rigid the prescriptive law the more enlarged the field of criminal prosecution and this affects the substance thereof, because it fixes the basis and the sphere of the right to punish. And can all of these be done by the sovereign power without any law? Can that power, without doing an injustice, extend the effects of the new law to said acts committed before its enactment? For the same reasons which prevent the sovereign power from punishing those acts that have not expressly been made punishable as crimes
> by the former law or from imposing the more severe penalties provided in the new
> law when such acts have been committed before those penalties were established by legislative enactment, so also it cannot enlarge the criminal action (that is to say, its right to punish) by a subsequent law and apply to acts executed before its enactment the less favorable provisions of prescription therein established. * * *
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> "For the reasons stated, we come to the conclusion that, as a matter of justice which must regulate all the elements of a criminal action, that the accused must be given the benefit of the provisions of the new law when more favorable to him and that, unless there should be a final and conclusive judgment at the time, we must also admit in matters of prescription that the new law, when less severe, should be applied. The same principle applies when the modifications introduced by the law refer to the prescription of the penalty, because in its substance the prescription of the penalty is equivalent to the prescription of the criminal action," (Fiore, *Irretroactividad e Interpretacion de las Leyes*, pp. 426-428.)

We have here quoted the leading Latin authority on the retroactivity of statutes and there can be no doubt that the doctrine stated by him is of general acceptance in countries whose legislation is founded on Latin principles; at least, we have found nothing to the contrary. Considering that the men who prepared the Penal Code were steeped in the principles of Latin law, it is impossible to escape the conclusion that they had these principles in mind in formulating article 22 and intended it to apply to criminal law in general and

not merely to the branch thereof which deals with the duration or measure of penalties. It is very true that due, perhaps, to the fact that there have been no changes in the provisions of the Penal Code in regard to the prescription of actions, there are no direct adjudications by the supreme court of Spain upon the subject and the Spanish commentators on the Code have generally discussed article 22 in its relation to the measure of penalties merely, but this circumstance does not, of course, affect the principle involved and is not necessarily of any special significance.

It may be interesting to note in passing that the same principle has also met with the approval of high American authority. Wharton, in his work on Criminal Pleading and Practice, 9th ed., says in section 316:

> "While, as will be hereafter seen, courts look with disfavor on prosecutions that have been unduly delayed, there is, at common law, no absolute limitation which prevents the prosecution of offences after a specified time has arrived. Statutes to this effect have been passed in England and in the United States, which we now proceed to consider. We should at first observe that a mistake is sometimes made in applying to statutes of limitation in criminal suits the construction that has been given to statutes of limitation in civil suits. The two classes of statutes, however, are essentially different. In civil suits the statute is interposed by the legislature as an impartial arbiter between two contending parties. In the construction of the statute, therefore, there is no intendment to be made in favor of either party. Neither grants the right to the other; there is therefore no grantor against whom the ordinary presumptions of construction are to be made. But it is otherwise when a statute of limitation is granted by the State. Here the State is the grantor, surrendering by act of grace its rights to prosecute, and declaring the offence to be no longer the subject of prosecution. The statute is not a statute of process, to be scantily and grudgingly applied, but an amnesty, declaring that after a certain time oblivion shall be cast over the offence; that the offender shall be at liberty to return to his country, and resume his immunities as a citizen; and that from henceforth he may cease to preserve the proofs of his innocence, for the proofs of his guilt are blotted out. Hence it is that statutes of limitation are to be liberally construed in favor of the defendant, not only because such liberality of construction belongs to all acts of amnesty and grace, but because the very

> existence of the statute is a recognition and notification by the legislature of the fact that time, while it gradually wears out proofs of innocence, has assigned to it fixed and positive periods in which it destroys proofs of guilt. Independently of these views, it must be remembered that delay in instituting prosecutions is not only productive of expense to the State, but of peril to public justice in the attenuation and distortion, even by mere natural lapse of memory, of testimony. It is the policy of the law that prosecutions should be prompt, and that statutes enforcing such promptitude should be vigorously maintained. They are not merely acts of grace, but checks imposed by the State upon itself, to exact vigilant activity from its subalterns, and to secure for criminal trials the best evidence that can be obtained."

Now, considering the genesis of article 22 of the Penal Code and its underlying principles as above stated, can there be any doubt as to its meaning in regard to any particular offense? It can only mean what it in slightly different language says; namely, that whenever a new statute dealing with crimes establishes conditions more lenient or favorable to the accused in regard to a certain offense, the statute becomes retroactive as to that offense and the accused must receive the benefit of the new conditions no matter whether the offense was committed before or after the enactment of the new statute.

That that article is still in force is beyond question. As long as it so remains in force it is of general application to all penal statutes, past, present, and future, and furnishes the rule for determining to what extent they are retroactive or merely prospective. It follows that unless a penal or criminal statute expressly, or by necessary implication, provides that it shall not be regarded as retroactive, it becomes subject to the rule laid down by that article.

(3) We will now turn to the third point raised, i. e., that section 71 of Act No. 3030 by its terms is applicable only to offenses resulting from that Act and cannot be given retroactive effect.

In view of the fact that Act No. 3030 is only amendatory of the Election Law, we think it is fair to presume that section 71 was intended by the Legislature as an amendment to the Election Law in order to remedy an obvious and quite

serious defect in that law. From this point of view, there can, of course, be no doubt that the period of prescription fixed by the section applies to all election offenses alike whether committed before Act No. 3030 went into effect or not.

But it is vigorously argued that the language of the section is so plain as to make any interpretation unnecessary and that when a section of the Act says "this Act" it means the Act in which it occurs and no other. As far as the present case is concerned, both theories will lead to the same result if article 22 of the Penal Code is taken into consideration and we shall, therefore, for the purposes of the argument, take the language of the section literally and assume that the period of prescription it establishes relates only to offenses defined and penalized in Act No. 3030.

Comparing the penal provisions of the Election Law with those of Act No. 3030, it will be found that practically all of the offenses defined in the former law are also defined *in the same language* in Act No. 3030, the only difference being that the penalties have been increased.

We repeat that article 22 of the Penal Code applies to all penal statutes alike and furnishes our only guidance in determining the extent to which a penal statute is retroactive. Unless the statute is taken out of its operation either by express provisions of law or by *necessary* implication, the article applies. There is, as far as we can see, absolutely nothing in Act No. 3030 indicating that it is no't subject to exactly the same measure of retroactivity as any other penal statute. Retroactivity, as we here speak of it, means, of course, retroactivity as to particular penal offenses, and bearing this in mind in connection with the provisions of article 22, does it not, then, seem obvious that if an offense was defined and made punishable by the Election Law as contained in the Administrative Code and is defined in exactly'the same language in the amendatory Act No. 3030 with merely an increase in the penalty, article 22 of the Penal Code must be held to be applicable and that in all in which the new law is more favorable to the accused it becomes retroactive as to that offense?

An illustration, by way of analogy, may, perhaps, make this even clearer: Let us suppose that a statute is enacted defining the crime of murder in the same

language in which it is defined in the Penal Code, but providing that the maximum penalty for the crime denned in the new statute shall be life imprisonment, the statute containing no provision that it shall not be retroactive in its effect. Would anyone then maintain that the death penalty might still be imposed for murder committed before the new statute was enacted? For a court to so hold would obviously amount to a judicial repeal of the article. And in this respect there can be no difference in principle between the offense of murder and an election offense.

In the present case we have a situation identical in principle with the state of facts we have assumed in our illustration. The defendant was convicted by the Court of First Instance under section 2639 of the Administrative Code of the offense of having failed, as an election inspector, "to perform any duty or obligation imposed by the Election Law." Section 49 of Act No. 3030, in amending section 2639 of the Administrative Code, defines the offense in question in exactly the same language as failing "to perform any duty or obligation imposed by the Election Law," and only increased the penalty; the offense is exactly the same under both sections. Consequently, if we hold that the prescription provided for in section 71 applies to *all* offenses defined and penalized in Act No. 3030 and not merely to offenses there defined and made punishable for the first time and we further, hold, as we must, that article 22 of the Penal Code is applicable to all penal statutes, including those for the limitation of penal actions, and not merely to the measure of the penalty, the conclusion is irresistible and unavoidable that the present action, not having been instituted within the prescriptive period fixed by section 71 of Act No. 3030, must be dismissed.

A strong appeal has been made to our emotions by describing in rather vivid colors the disastrous consequences which will result from the dismissal of actions in which the accused have already been convicted of election offenses by the trial courts and it has been intimated that for us to impute to the Legislature the intention of bringing about such a state of affairs would constitute a serious reflection not only on the honor of the Legislature but also on this court.

As to this we can only say that it is our duty to apply the law as we find it; that it is also our duty to observe the rule that the defendant in a

criminal case is entitled to the benefit of all reasonable doubts, both as to the facts and as to the law; and that we believe that the interests both of justice and of the public welfare will be best served by this court doing its duty without fear or favor. We should, indeed, be recreant to that duty were we to allow our zeal for the punishment of crime to lead us to distort the language of plain provisions of the law in a sense adversely to the accused. In regard to the present case, we also believe that the disadvantages of the uncertainty and confusion which would eventually result from a forced construction of the law would much more than offset the advantages of securing the conviction and imprisonment for a few months of a relatively small number of infractors of the Election Law. The decision of the United States Supreme Court in the case of Weems *vs*. United States (217 U. S., 349), had much more serious consequences in this respect, yet, that court did not hesitate there to interpret the law according to its best judgment.

In the same connection, but speaking for myself only, I will frankly confess that not only do I not share the gloomy forebodings of some of the members of this court as to the practical effect of our interpretation of the law, but that neither am I convinced that the action of the Legislature in making the one year period of prescription retroactive was wholly inadvisable.

Where political parties represent personal followings rather than divergent political principles, changes in political allegiance are frequent and it is therefore especially important that election offenses be brought before the courts promptly. If several years are allowed to elapse before the prosecution is instituted, many of the voters may, in the meantime, have become dissatisfied with their former party connections or, in effect, resentful towards the leading members of the party. Such persons are usually willing witnesses for the prosecution of their former party associates, are particularly dangerous to the accused by reason of the inside information they are supposed to possess, and their testimony is likely to be given greater credit than that of persons known to have belonged to a party opposed to that of the accused. And it is no reflection on the ability and integrity of the judiciary to say that judges, knowing as they do that irregularities have, unfortunately, been quite common in past elections, are frequently inclined to look with suspicion upon an election official accused of an infraction of the Election Law and to turn the usual presumption of innocence into a presumption of guilt. Under such circumstances

it is not to be expected that the motives prompting the witnesses for the prosecution will be very closely scrutinized. It therefore seems to me that the Legislature has acted wisely in providing a short period of prescription of election offenses, so that unless the offense is sufficiently obvious and grave to attract the attention of the prosecuting authorities within that period, the matter will be allowed to rest. What is true as to future offenses is also, to some extent, true of similar offenses in the past, and I can therefore see no very serious objections to the retroactivity of the prescription. It is, of course, to be regretted if guilty persons escape well-deserved punishment, but it is more important that no innocent man be made to suffer punishment unjustly.

For an illustration I need not go beyond the present case: The accused was an election inspector in the elections of June, 1919. In the precinct where he was acting there were two inspectors of the *Partido Democrata* and only one of the *Partido Nacionalista*. The law required an inspector to be accompanied by an inspector of the opposite party in writing the ballots of illiterate or incapacitated voters. The defendant is accused of having written ballots without being so accompanied and is prosecuted under section 2639 of the Administrative Code, which makes it a penal offense "to *wilfully* decline or fail to perform any duty or obligation imposed by the Election Law." As will be seen, in order to constitute a penal offense the refusal or failure must be wilful. Wilfulness is therefore an element of the crime and must be alleged and proven beyond a reasonable doubt.

In penal statutes the word " 'wilfully' means with evil intent or with legal malice or with a bad purpose" (Bouvier's Law Dictionary), and I have been unable to find anything in the evidence which can even raise a presumption of that kind of wilfulness on the part of the accused, though there is, perhaps, sufficient proof that each of the three inspectors wrote ballots or parts of ballots for, illiterate or disabled voters without being accompanied by another inspector.

The principal witness for the prosecution is the *Nacionalista* inspector. He piously asserts that he protested against the practice followed by the board of inspectors and that he, for his part, always had Norberto Parel, the accused, accompany him in writing ballots. He admits, however, that after

having written the first few names on the ballots, Parel would leave him, but that he, the witness, continued to write the rest of the names on the ballots unaccompanied. He further states that he did not offer to accompany the other inspectors because he was too busy writing ballots himself and continued to be so occupied until late in the afternoon. The protest he alleges to have made does not appear upon the returns and the other inspectors deny that he made any protest whatever. The testimony of the other witnesses for the prosecution is limited to statements that they saw the two *Democrata* inspectors write ballots for illiterate persons without being accompanied by other inspectors. There is no evidence in the record that any frauds were committed in the writing of the ballots.

Exhibit D of the prosecution shows that there were 277 voters unable to write their ballots, an unusually large number, In view of the fact that there was only one *Nacionalista* inspector, a full compliance with the law would have required his presence at the writing of every one of the 277 ballots, a practical impossibility when it is considered that the writing of ballots did not commence until 8 a. m. (see testimony of Justino Pre, witness for the prosecution) and that the polls must close at 6 p. m. Any attempt to carry out the letter of the law would have led to the closing of the polls before the termination of the voting. As far as the record shows this may very well have been the reason for the failure of the inspectors to strictly observe the law and they may have acted in good faith.

The trial court found the defendant guilty and in view of the fact that the word "wilfully," depending on the context, is sometimes used as a synonym for "intentionally" and that it, in the Spanish text of the Election Law, is translated into "voluntariamente," I am not so sure but that this court would have affirmed the judgment. It may be noted that the facts in case R. G. No. 18261[1] are exactly the same as in the present case. Personally, I view the dismissal of the case with complete equanimity; we cannot purify elections by giving penal statutes a harsher interpretation than evidently intended by the lawmakers. An attempt on our part to do so may possibly have the opposite effect by making it more difficult to secure competent election officials and will produce the inevitable reaction, either in the form of executive clemency or in over-lenient legislation. We have had instances of such reactions in the past.

Including the present, there are eleven cases before this court which will be affected by this decision; according to information furnished by the Attorney-General, there are also three cases pending decision in the Courts of First Instance and fourteen cases pending trial in which prosecution has not been instituted within a year from the date of the discovery of the alleged offense. In some of these cases the prosecution is, no doubt, meritorious, but, in view of the delay in presenting the complaints, it is not unreasonable to assume that most of them are more or less of the character of the present case.

It may be stated, in this connection, that the accuracy of the figures here given as to cases pending and involving the principle under discussion has been questioned on the strength of a list of cases furnished Mr. Justice Malcolm by the Attorney-General. An examination of the sources of this list, consisting of communications from the clerks of the various Courts of First Instance, reveals, however, that the great majority of the cases there enumerated involve prosecutions for offenses committed in connection with the general elections of 1922 and are not affected by the present decision. Such examination also shows that the figures here quoted are correct.

More than three years have passed since the elections of 1919 and the Election Law has since been so amended as to remedy many of the defects which offered temptations and opportunities for infractions of the law and rendered the placing of the responsibility for such infractions difficult. Under the circumstances, it is by no means certain that the Legislature has acted unwisely in wiping the slate clean and casting oblivion over election offenses the prosecution of which has not, after so many years, been brought to a conclusion. In any event, the impending alleged calamity is not of so grave a nature as to justify a court in misinterpreting the law in order to avert it.

For the reasons stated, the motion is granted and the present case is hereby dismissed, with all costs *de oficio*. So ordered.

Araullo, C.J.,
Avanceña, Villamor, and *Romualdez, JJ.,* concur.

[1] People *vs*. Paz, promulgated January 27, 1923, not reported.

CONCURRING

STREET, J.:

When the question here presented was first brought before this court in another case the undersigned, while admitting in a general way that article 22 of the Penal Code was applicable to laws relating to election offences, yet he hesitated to adopt in their entirety the conclusions now stated in the opinion of Mr. Justice Ostrand and suggested that article 22 should be construed to apply only to such provisions of penal laws as define the crimes or fix the penalties. After a full consideration of the matter, the majority of the court do not accept this narrow view of the application of said article; and it is now to be given effect in accordance with the literal meaning of the language used, without evasion or qualification. To the position thus taken by the majority the undersigned is finally constrained to accede, partly because the will of the majority must prevail and partly because the position assumed in the opinion written by Mr. Justice Ostrand now appears to the undersigned to be at least as sound as the position previously assumed by the writer of this.

Date created: September 26, 2018