5 Phil. 285

[G.R. No. 2773. November 14, 1905]

HARRY J. COLLINS, PETITIONER AND APPELLEE, VS. G. N. WOLFE, WARDEN OF BILIBID PRISON, RESPONDENT AND APPELLANT.

D E C I S I O N

WILLARD, J.:

On the 13th day of June, 1905, Collins was convicted in the Court of First Instance of the city of Manila of the crime of theft, and was sentenced to imprisonment (*presidio correccional*) in Bilibid Prison for the period of two years. Having been confined under the sentence he presented to one of the justices of this court a petition for a writ of *habeas corpus*. The writ was issued, and after a hearing thereon, an order was entered discharging Collins from imprisonment. From that order the Government appealed. The case had been argued before the court upon that appeal, and is now before it for decision. A former application for the writ is reported in Official Gazette, Volume III, page 401.[1]

The complaint in the court below charges Collins with the crime of theft committed outside of the limits of the city of Manila, within what is known as the five-mile zone encircling the city, and not in the Bay of Manila. We have held in the case of the United States *vs*. Jenkins, No.1440,[2] that the Courts of First Instance of the city of Manila have no jurisdiction when such offense is committed on land outside of the city limits and within the five-mile zone.

The order appealed from is confirmed, without costs.

Arellano, C. J., Torres and *Mapa JJ.*, concur.

[1] 4 Phil. Rep., 534.

[2] Page 278, *supra.*

DISSENTING

JOHNSON, J.:

This is an appeal by the prosecuting attorney of the city of Manila from a decision of Justice Carson on an application for the writ of *habeas corpus*.

On the 15th of February, 1905, a complaint was filed against Harry J, Collins, in the following language:

> "That on or about the 13th day of February, 1905, at *El Deposito*, Province of Rizal, Philippine Islands, at about two hundred yards, more or less, from the actual limits of the city of Manila, and within the police jurisdiction of the city, and within the jurisdiction of this court, the defendant did willfully, unlawfully, and feloniously, and with intent of gain, and without the consent of the owner thereof, take, steal, and carry away, of the property of one Martin T. Milan, twelve ten-dollar bills, United States currency, of the value of one thousand two hundred pesetas, Philippine currency."

Upon this complaint a warrant was issued, and the defendant was arrested and brought to trial before, the Court of First Instance of the city of Manila. On the 1st day of March, 1905, he presented a demurrer to said complaint in the language following:

> "First. That the supposed crime set forth in the said complaint was not committed within the jurisdiction of this court.
>
> "Second.
> That the place where the crime was committed as alleged in the said complaint is not within the jurisdiction of this court."

On the 13th day of March, 1905, the Hon. John C. Sweeney, presiding judge, overruled said demurrer and held that the crime charged in said complaint was committed within the territorial jurisdiction of the Courts of First Instance of the city of Manila, and that said court therefore had jurisdiction to try the said defendant.

On the 25th day of March, 1905, the said defendant applied to this court for the writ of *habeas corpus*, alleging that the Court of First Instance of the city of Manila had no jurisdiction to try him, which application was denied.

The cause was subsequently tried by the Court of First Instance of the city of Manila. The court found that the defendant was guilty of the crime charged in the complaint, and on the 13th day of June, 1905, sentenced him to be imprisoned in the puhlic *carcel* of Bilibid, at hard labor, for the period of two years, and to pay the costs. The court further ordered that the defendant restore to Martin T. Milan the sum of $120, United States currency, and in default of such payment and in case of insolvency, that he suffer the subsidiary penalty provided for by law.

On the 29th day of June, 1905, the defendant made an application before the Hon. A. C. Carson, associate justice of the Supreme Court, for the writ of *habeas corpus*, alleging that he was illegally detained and deprived of his liberty by G. N. Wolfe, Warden of the public oarcel of Bilibid, in the city of Manila. Upon this application the said justice, acting as vacation judge of the Supreme Court, issued an order, directed to the said G. N. Wolfe, Warden of Bilibid Prison, commanding him to have the body of the said Harry J. Collins before him, the said justice, on the 3rd day of July, 1905, at 3 o’clock p. m., of that day, to do and receive what should then and there be considered concerning the said Harry J. Collins, together with the time and cause of his detention, and that he should have then and there the said writ.

Upon the return of said writ, and after considering the facts, the said justice found that the Court of First Instance of the city of Manila had no jurisdiction to try the said Harry J. Collins for the

offense of which he was convicted, and that the trial, judgment, and sentence were illegal and void *ab initio*, and ordered that the said defendant, Harry J. Collins, be forthwith discharged from the custody of said Warden George N. Wolfe.

On the same day, July 3d, 1905, the prosecuting attorney, Charles H. Smith, of the city of Manila, duly appealed from said order of this court. The cause is here now on said appeal.

The question presented to this court by said appeal is whether or not the Court of First Instance of the city of Manila has jurisdiction over offenses against the Penal Code committed within what is generally known as that portion of the city of Manila over which said city has jurisdiction for "police purposes only,"

By section 49 of Act No. 136 of the United States Philippine Commission, a Court of First Instance was created for the city of Manila. Section 1 of Act No. 140 provides that the city of Manila shall constitute one judicial district, to be known as the Judicial District of Manila. This same-judicial district was recognized by the Commission by section 5 of Act No. 867. Act No. 136 took effect on the 16th day of June, 1901; Act No. 140 took effect upon the 12th day of June, 1901; Act No. 867 took effect on the 5th day of September, 1903.

In order to ascertain what territory is included within the city of Manila and its judicial district it is necessary to examine the Charter of said city. Section 2 of Act No. 183 (Charter of the city of Manila) provides temporary boundaries and limits of said city. The boundary and limits are as follows:

> "Beginning at a point at the junction of Estero Vitas with Manila Bay at low-water mark, in the northwest corner of Manila, thence running south 63 degrees East up Bocana Vitas * * * (following lines marked in said section) to a point in the middle of Calle Marina, about 206 meters to low-water mark in Manila Bay; hence following the shore line of said bay at low-water mark in a general

> northwesterly direction, to the point of beginning."

It will be seen by these territorial limits of the city of Manila that only that portion of Manila Bay outside of low-water mark was included within the city.

Section 3 of said Act No. 183 provides that for police purposes the said city may have jurisdiction over additional territory beyond that included in said

Section 2. Section 3 provides as follows:

> "The jurisdiction of the city government, for police purposes only, shall extend to three miles from the shore into Manila Bay, and over a zone surrounding the city on land of five miles in width."

The territorial limits of the city of Manila were extended by Act No. 341 by amendment of section 2 of said Act No. 183, as follows:

> "SEC. 2. The boundaries and limits of said city [Manila] are hereby established and prescribed as follows; Beginning at a point '6' (marked by a monument), 150 meters north of the Estero Matantubig; thence running S. 52°. 6′ 42″ 5,730 and five thousand seven hundred and one ten- thousandths meters to a point '6' (marked by a monument) near the bridge on the east bank of the San Juan River, and through this point in continuation of said course to a point in the center of the channel of said river, '6a;' * * * [in a line continuing around the said city] to a point '1' (marked by a monument) at high-water mark on Manila Bay, marked on the south side of the mouth of the Estero San Antonio, Malate, and through this point in continuation of said course, to low-water mark; thence in a general northwesterly direction along the shore line of Manila Bay at low-water mark to a point '8' directly west of the point of beginning '7' thence east 2,228

meters to the point ‘7’ of beginning.”

The boundary of the city of Manila along Manila Bay by Act No. 341 remains the same as that fixed by Act No. 183.

If the Court of First Instance for the city of Manila has no jurisdiction except within the limits of said city as described in the above-quoted section of Act No. 341, then the courts of the city of Manila have no jurisdiction to try persons charged with violations of the provisions of the Penal Code committed beyond the low-water mark on said bay. Yet the Court of First Instance of the city of Manila has, since its organization, been trying persons charged with violations of the provisions of the Penal Code, committed on the said bay, and no one has ever questioned the right of said court to try such persons. If the doctrine contended for by appellee in this case is the true doctrine, then every such person who has been tried by said court is entitled to be released under a writ of *habeas corpus*, for the reason that the said court had no jurisdiction. The Supreme Court has recently sentenced Prudencio Magpoc to the penalty of death, and Pio de Guzman and Cayetano Rivera to the penalty of life imprisonment (*cadena perpetua*), for offenses committed far beyond the low-water mark in Manila Bay. No one of the lawyers connected with the trial of said case even suggested that that portion of Manila Bay convered by section 3 of Act No. 183 was not within the jurisdiction of the city of Manila, nor that the Court of First Instance did not have jurisdiction over such offenses.

If the doctrine contended for by the appellee is the true doctrine, then Prudencio Magpoc should either be instructed to apply for a writ of *habeas corpus*, in order that he may be released before his execution; or the Governor-General of these Islands should see to it that he is pardoned, to the end that the American Government in these Islands may not be charged with executing the death penalty upon a sentence rendered by a court which had no jurisdiction in the premises.

It is contended by the appellant that the city of Manila has two boundaries; one for ordinary municipal governmental purposes, such; for

example, as the maintenance of streets, water, light, schools, for the collection of taxes, and such other purposes as belong primarily to municipal government, and another, which includes the first and extends over a wider territory, for police purposes.

Municipalities or municipal governments only have such powers as are expressly given them by charter, and such as are necessarily implied from such express powers. The questions present themselves; (1) Had the United States Philippine Commission authority to provide for the city of Manila one territory over which the municipal authorities might exercise jurisdiction for the ordinary purposes of such municipality, and (2) another territory, including the first, over which the said municipality should exercise police power only? The legislative powers of the United States Philippine Commission are enumerated in the fifth paragraph of the instructions of President McKinley to said Commission. Paragraph 5 provides among other things, as follows:

> "Beginning with the 1st day of September, 1900, the authority to exercise, subject to my approval, through the Secretary of War, that part of the power of government in the Philippine Islands, which is of a legislative nature * * * under such rules and regulations as you (the United States Philippine Commission) shall prescribe * * * . Exercise of this legislative authority will include the making of rules and orders, having the effect of law, for the raising of revenue by taxes, customs duties, and imposts; * * *the organization and establishment of courts; the organization and establishment of municipal and departmental governments * * * ."
>
> "The Commission will also have power * * * to appoint to office such officers under the judicial, educational, and civil-service systems and in the municipal departmental governments as shall be provided for."
>
> "In the establishment of municipal governments the Commission will take as the basis of their work the government established by the Military

> Governor, under his order of August 8, 1899, and under the report of the board constituted by the Military Governor by his order of January 29, 1900, to formulate and report a plan of municipal government, of which his honor, Cayetano Arellano, president of the audiencia, was chairman * * * .”[1]

It will be seen by an examination of these instructions that the United States Philippine Commission had authority to establish municipal governments, and that they contained no limitation upon such power. We conclude, then, that the Commission had authority, if it deemed it wise to exercise it, to create municipalities, giving the same ordinary municipal powers over one territory, and police power over another, either wider or narrower than the first. This exercise of legislative power is no new exercise of the same. It has been exercised by legislatures in the States, with reference to cities there.

Long experience in city government has taught cities that it is advisable for such governments to have a police power over a territory wider than is necessary for ordinary city purposes, in order that such government may protect its inhabitants from the disorder which would result from the establishment of bawdy houses and other places equally hazardous to good order and good government within the city, just beyond and outside of the thickly populated district of such cities. The justice and advisability of such provisions appeal at once to the good judgment of every citizen in favor of order, decency, and good government.

The State of Illinois, by an act of the legislature, gave to the city of Chicago jurisdiction for police purposes over a territory wider than that given for ordinary municipal purposes.

The general law of 1872 of the State of Illinois gave to the city of Chicago authority “to direct the location and regulate the management and construction of packing houses, renderies, tallow chandleries, bone factories, soap factories, and tanneries within the city or village and within the distance of one mile without the city or village limits.”

This was a delegation of the police power of the State for the purposes mentioned.

In pursuance of this authority, the city of Chicago adopted an ordinance prohibiting any person, company, or corporation within the city, or within one mile of the city limits, from engaging in the business of slaughtering animals for food, or packing them for market, or rendering the offal, fat, bones, or scraps thereof, or any dead animal matter whatever, or to manufacture fertilizers or glue, or cleaning or rendering intestines, until they should have obtained a license therefor.

In the case of the Chicago Packing and Provision Co. *vs*. The City of Chicago the plaintiff was arrested and tried before the police magistrate of the city of Chicago, charged with the violation of this ordinance. The plaintiff was convicted and appealed to the circuit court of the city of Chicago, where it was again convicted for violation of said ordinance, and it then appealed to the supreme court of the State, where the judgment of the lower court was affirmed.

The said appellant corporation contended that the city of Chicago had no power or authority to interfere with its business, for the reason that the said business was without the city of Chicago and within the distance of 1 mile without the city ; and further, that its business was within the corporate limits of another city, that of the city of Lake, and that it had a license from the latter city to pursue its business in the place where the same was located and that the city of Chicago was therefore powerless to assume control over the business of the appellant or the establishment in which it was done.

In reply to this argument the supreme court of the State of Illinois said:

> "There can be no doubt that the legislature may, for police purposes, prescribe the limits of municipal bodies. It may enlarge or contract them at pleasure, and may define the limits within which their general powers may be exercised, and extend or limit the boundaries in which *special powers* may be performed. Under

> the general law, the limits prescribed by special charters of cities and villages are recognized as still existing, and within which they may exercise their general powers; but, in addition thereto, this act (of 1872) has, for *specified purposes*, enlarged those boundaries one mile in every direction from the city or village limits proper, and the legislature has the power to increase those limits, *even though* they may lap over territory in the limits of other municipalities. As to the possession of this power there is no question, otherwise it would not have the legislative powers essential to the government, nor is there any restriction on the power. * * *"
>
> "The lives, health, and comfort of the people are the highest, and demand the first and greatest protection. * * *" To accomplish this purpose, the power was conferred upon cities and villages to regulate these (noxious) establishments for a distance of one mile beyond their corporate limits, even if that should lap over and embrace a portion of the territory included in the limits of another municipality. Each, to that extent, has the right to protect its inhabitants and such establishments located in such territory, are subject to the police power of both municipalities." (88 111., 227.)

The power which was given to the city of Chicago and the other cities of the State of Illinois by the general law of 1872 gave to the city of Chicago the right, under the *police power* of the State, to protect the health, comfort, and peace and to maintain good order within the city of Chicago. The legislature of that State very wisely foresaw not only the necessity of giving to the city of Chicago authority to exercise the police power of the State over the fixed limits of the city of Chicago, which had been limited for purely municipal purposes, but also over an additional territory over which the said city might exercise this same police power, but without authority to exercise its general municipal power.

In the case of Van Hook *vs*. City of Selma (70 Ala., 361; 45

Am. Rep., 85) the question was presented to the court whether or not the city of Selma could exercise police power and jurisdiction beyond the limits of said city under a provision of the law of the State of Alabama which provided that the city of Selma might "have and exercise all the p*olice powers* and jurisdiction conferred by the charter of the city" within the specified territory adjoining and outside of the city limits. (Section 1 of the law of February 12, 1879.)

The court in passing upon this question, said: "The police power has been held to embrace the protection of lives, health, and property of the citizens, the maintenance of good order and quiet of the community, and the preservation of public morals.

> "We do not think there is any question of the power of the general assembly to pass an act of this character, extending, for police purposes merely, the limits of a municipality, and conferring power on the city authorities to pass laws operating for such purposes beyond the corporate limits."
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> (Beer Company *vs*. Massachusetts, 97 U. S., 25; Thorpe *vs*. Rutland and B. R. Co., 27 Vt., 139; Chicago Packing & Prov. Co. *vs*. Chicago, 88 111., 221.)
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> In this case (Van Hook *vs*. City of Selma) it will be noted that the power of the city was extended beyond the ordinary limits of the city for "*police purposes merely*."

The phrase in the Manila Charter (sec.3) is "*for police purposes only*."

It has been argued that the phrase "police purposes only" does not mean "police power." That is to say, when the Commission gave the city of Manila authority to exercise "police power" in the additional zone, by the phrase "for police purposes only," that it did not intend to confer upon the city of Manila authority to exercise the "police powder" of the State within the additional zone. No attempt has been made to show wherein the power conferred upon the city of Manila to exercise its municipal functions within their additional zone for

"police purposes only" differs from the general police power of the State. The phrase "police power" or a law for "police purposes" has a well-defined meaning in legal nomenclature.

The question is whether or not the Commission intended to confer upon the city of Manila the general police power of the State over the additional zone. We believe that the Commission intended to confer upon the city of Manila by the phrase *"for police purposes only"* the right to exercise what is known as the police power of the State over this additional zone. An examination of what constitutes the police power justifies this conclusion.

Blackstone defines the police power of the State to be "*the due regulation and domestic order of the kingdom; whereby the individuals of the State, like the members of a well-governed family, are bound to conform their general behavior to the rules of propriety, good neighborhood, and good manners; and to be decent, industrious, and inoffensive in their respective stations. This head of offenses must, therefore, be very miscellaneous, as it comprises all such crimes as especially affect public society.*" (Blackstone, 4th ed., book 4, p. 163.)

Judge Cooley, in his valuable work on Constitutional Limitations (p. 704), says:

> "The police of the State, in a comprehensive sense, embraces its whole system of internal regulation, by which the State seeks not only to preserve the public order and to prevent offenses against the State but also to establish, for the intercourse of citizens with citizens, those rules of good manners and good neighborhood which are calculated to prevent a conflict of rights, and to insure to each the uninterrupted enjoyment of his own so far as it is reasonably consistent with a like enjoyment of rights by others.
>
> "The police power of the State is coextensive with self-protection, and it is not inaptly termed 'the law of overruling necessity.' It is that inherent and plenary power in the State which enables it to prohibit all things hurtful to the comfort and welfare of society." (Lake View *vs.* Rose Hill

Cemetery, 70 111., p. 194.)

The police power is the foundation of criminal law in all governments of civilized countries, and all other laws conducive to safety, and consequently the happiness of the people. This is the power which in our opinion the United States Philippine Commission intended to confer upon the city of Manila over this additional zone.

The police power of the State extends to the protection of the lives, limbs, health, comfort, and quiet of all persons, and the protection of all property within the State. It is universally conceded that the police power of the State includes everything essential to the public safety, health, and morals, and to justify the destruction or abatement by summary proceedings of whatever may be regarded as a public nuisance. Under this power of the State it has been held that the State may order the destruction of a house falling to decay, or otherwise endangering the lives of passers by; the demolition of such as are in the path of a conflagration; the slaughter of diseased cattle; the destruction of decayed or unwholesome food; the prohibition of wooden buildings; the regulation of railways or other means of public conveyance, and of interments in burial grounds; the restriction of objectionable trades to certain localities; the compulsory vaccination of children; the confinement of the insane, or those afflicted with contagious diseases; the restraint of vagrants, beggars, and habitual drunkards; the suppression of obscene publications and houses of ill fame; and the prohibition of gambling houses and places where intoxicating liquors are sold.

The United States Philippine Commission in creating the city of Manila, by the sections of its Charter conferred upon the city of Manila police powers in addition to the powers ordinarily granted to municipalities, and when the Commission said that the city of Manila could have jurisdiction for "*police purposes only*" in the additional zone surrounding the said city it clearly meant that the city might exercise the police powers only over this additional zone which it had authority to exercise within the territory over which it

could exercise the ordinary municipal powers.

The expression "the jurisdiction of the city government" used in section 3 of the Manila Charter means more than the exercise of power by policemen; the exercise of the jurisdiction of the city government involves much more than the making of arrests. It means that the city of Manila may, through its proper officials, protect the lives and health and property and good order in said city. This section must have a reasonable interpretation, and it is quite clear from an examination of the charter of said city, that the Commission intended to give said city the same power in this additional zone to exercise the police power of the state, that it intended to give to the said city within the limits of the city for ordinary purposes.

The United States Philippine Commission had authority to grant to the city of Manila a charter over two distinct territories, the first for municipal purposes purely, and the second, which should include the first, for police purposes only. In other words the Commission had authority to say to the municipal authorities of the city of Manila *"You may maintain streets, lights, furnish water, maintain schools, and levy taxes for the support of these necessities, and maintain order within certain limited territory, and further, in order to secure good government and good order within the first territory you may have jurisdiction over certain additional territory for police purposes only, in order that you may be able to maintain peace and good order within the first territory.*"

The question arises, then, granting that the Commission had authority to give the city of Manila these two jurisdictions over two different territories, did the United States Commission actually confer these respective powers upon the city of Manila by its Charter and its amendments? An examination of the Charter is necessary to answer this question.

SECTION 3 of Act No. 183 (Charter of Manila) provides:

> The jurisdiction of the city government for police

purposes only shall extend to three miles from the shore into Manila Bay and over a zone surrounding the city on land of five miles in width."

SECTION 35 provides:

"First. Duties of chief of police—
There shall
be under the (Municipal) Board a chief of police, who shall have charge of the department of police. * * *" shall quell riots, disorders, disturbances of the peace, and shall arrest and prosecute violators of any *law* or *ordinance*; shall exercise police supervision over all land and water *within the police jurisdiction of the city*;
shall be charged with the protection of the rights of persons and property wherever found within the (police) jurisdiction, of the city, and shall arrest without warrant * * * " violators of any law or ordinance * * *; shall have authority, within the police limits of the city, to serve and execute criminal process of any court; * * *and shall promptly and faithfully execute * * * all writs and processes of the city courts, and all criminal processes of the Court of First Instance of the city of Manila, when placed in his hands for that purpose."

SECTION 37 (Charter of Manila), among other things, provides:

"All peace officers created by this act, or
authorized by law or ordinance, are authorized to serve and execute all processes of municipal courts, and *criminal processes of insular courts*, to whomsoever directed, within the jurisdictional limits of the city or within the police limits as herein-before defined; and within *the same territory* they may pursue and arrest, *without warrant*,
any person found in suspicious places or under suspicious circumstances reasonably tending to show that such person has committed or is about to commit, any crime or breach of the peace; * * *They shall detain

such person only until he can be brought before the *proper magistrate* * * *."

SECTION 39 provides that:

> "The prosecuting attorney of the city of Manila
> shall have charge of the prosecution of all crimes, misdemeanors, and
> violations of city ordinances, in the Court of First Instance and the
> municipal courts of the city of Manila."

SECTION 40 (Municipal Charter), as amended by Act No. 612, provides for a municipal court for the city of Manila and its jurisdiction. Said section provides that:

> "The municipal court * * * shall have jurisdiction over *crimes, misdemeanors, and violations of ordinance*s
> committed on the waters of the Pasig River or Manila Bay within the
> police jurisdiction of the city. * * * Said court shall have exclusive
> jurisdiction over all criminal cases arising under the ordinances of
> the city, and over all criminal cases arising under the penal laws of
> the Philippine Islands, where the offense is committed within the *police jurisdiction*
> of the city * * * and the maximum punishment is by imprisonment for not
> more than six months, or a fine of not more than one hundred dollars,
> or both. Such courts (municipal) may also conduct preliminary
> examinations for *any offense* without regard to the limits of
> punishment; and may release or commit and bind over any person charged
> with such offense, to secure his appearance before the proper court
> (the Court of First Instance)."

SECTION 40, as above quoted, was amended by section 2 of Act No. 612 without affecting the foregoing quotations from section 40, but continuing and confirming the territorial jurisdiction of said municipal court in the following language:

> "The municipal court (shall be vested) with territorial jurisdiction embracing the entire police jurisdiction of the city, and with exactly the same powers and duties in the exercise of its jurisdiction over the whole territory within the police jurisdiction of the city as the two existing municipal courts have heretofore exercised within the limits of their respective territorial jurisdictions."

The last amendment continues the powers of the *peace officers* the same as that provided for by Act No. 183.

SECTION 42 provides for appeals from decisions of the municipal court to the Court of First Instance in all cases where a fine or imprisonment is imposed.

An examination of the foregoing quoted provisions of said charter discloses the following facts:

1. That the United States Philippine Commission has by a law, properly enacted, created a municipality known as the city of Manila, giving to such city two territories, one within the other, giving to said city the right to exercise the ordinary municipal powers over one territory, and the right to exercise the police power of the state over an additional territory, and included within said city for police powers all of the territory mentioned in section 3 of said charter.

2. The said Commission has created peace officers for said city, conferring upon them the duty to protect the rights of persons and property wherever found, within the jurisdiction of the city, and the authority to serve criminal process of insular courts anywhere within the police jurisdiction of said city.

3. The said Commission has obligated such peace officers, after making such arrests, to take such arrested persons, as soon as convenient, before the proper magistrate.

4. Said
   Commission has provided that such peace officers shall promptly and faithfully execute all orders and processes of the courts, and all criminal processes of the Courts of First Instance of the city of Manila.

5. Said Commission has created a
   municipal court, giving it jurisdiction over all criminal cases, arising under the penal laws of the Philippine Islands, committed within the police jurisdiction of the city, where the maximum punishment is by imprisonment for not more than six months, or a fine of not more than $100 or both.

6. The said
   Commission has also conferred upon such municipal court the right to conduct preliminary examinations for any offense, without regard to the limits of punishment, and may release or commit and bind over any person charged with such offense, to secure his presence before the proper court.

It is admitted by the argument that the municipal court of the city of Manila has jurisdiction to try offenses within its jurisdiction, committed within the police jurisdiction of said city, but it is argued that the Courts of First Instance of the city of Manila have no jurisdiction to try offenses committed within that territory of the city of Manila over which the city exercises police jurisdiction. If this contention is true, that the Courts, of First Instance have no authority to try persons arrested for offenses committed within the police zone, then what did the United States Philippine Commission mean when it provided in section 40, that such municipal courts might conduct preliminary examinations for *any offenses* committed within the *police jurisdiction* of the city of Manila? Suppose, for example, that a peace officer of the city of Manila should arrest a man for an offense committed in his presence within the police jurisdiction. The peace officer is not supposed to know the punishment provided for by law. Such peace officer carries the arrested person, together with all the witnesses, before

the municipal court. An examination of the facts discloses that the punishment is larger than that which the municipal court can impose. What can the municipal court do with such arrested person? Section 40 provides that he may conduct a preliminary examination and can take a bond from such person charged with such offense for his appearance before the proper court. What is the proper court? Where shall the municipal judge send such arrested person, if not to the Court of First Instance? The peace officer has a right to make arrests any place within the police jurisdiction of the city of Manila, and under the contention of the appellee here, if he takes such person before the municipal court and it is discovered that the offense committed is of a higher grade than that over which the municipal court has jurisdiction, and after all the expense and trouble has been incurred, then if the municipal court can not bind said defendant over to be tried by the Court of First Instance he must be released. Certainly the Commission, in providing for the courts of the city of Manila, did not intend any such results. The Court of First Instance of the city of Manila is just as truly a court for the city of Manila as the said municipal court, differing only in jurisdiction.

It is admitted:

> First. That the municipal court of the city of Manila may take jurisdiction of offenses for the violation of *law* or ordinances committed within the five-mile zone surrounding the city of Manila, where the punishment for such offenses is within the jurisdiction of said court.
>
> Second. That the said municipal court may take jurisdiction of all offenses under the Penal Code, for the purpose of conducting preliminary examinations.

It is argued, moreover, that the municipal court of the city of Manila has authority only to try persons who are charged with *misdemeanors within this zone*, and to that extent may assist in maintaining good order in the city of Manila; but if the offense be a serious offense or a crime, then

neither the municipal court nor the Court of First Instance of the city of Manila can take jurisdiction. Or if the offense be a high offense, one affecting vitally the good order of the city, then the people of the city are at the mercy of another government, over which it has no control whatever. We do not believe that the legislature, which granted to the city of Manila its Charter, intended to leave the courts and the people in any such enfeebled condition. The Charter provides that the municipal court of the city of Manila may conduct preliminary examinations in offenses over which it has no jurisdiction to render a final judgment and commit the parties to the proper court. Could the Commission have intended in this provision of the Charter that such cases should be referred to the court of an adjoining province? Could the Commission have intended that after the police of the city of Manila have properly made an arrest and have taken such person and all the witnesses before the municipal court and have incurred the expense incident thereto, that such person and witnesses should be taken, at additional cost, to another government for the purpose of being tried and this too, after it has provided for the city all the courts necessary for such trial? This would be giving to the provisions of the said Charter an unnatural and strained interpretation. It is the duty of the courts in construing a statute, to give to the same such meaning and interpretation as will sustain it, if possible. No one part of it can be construed alone. It must all be construed together, and the purpose and object of the same must be carried out by the courts. No technical rule of interpretation must be applied for the purpose of nullifying a statute or a law.

Did the Philippine Commission intend that the courts of the city of Manila could only assist in maintaining good order in the city of Manila when the offense committed against the peace and dignity of the people of the city of Manila was merely a misdemeanor, and when the offense was more grave and serious, affecting more vitally the good order of the city of Manila, that then the courts outside of the city, far removed from its influence, should take jurisdiction of such cases? We can not believe that the Philippine Commission intended that the charter which it gave to the city of Manila, should receive any such

unnatural and strained interpretation.

It is a common thing for States to give to adjoining municipalities concurrent jurisdiction over bordering territory. We are of the opinion that the Philippine Commission, in extending the limits of the city of Manila for police purposes beyond the limits for ordinary municipal purposes, gave the courts of the city of Manila and the adjoining provinces concurrent jurisdiction over this additional territory, in order that each might take such action and jurisdiction of offenses as might best conserve peace and good order in the respective jurisdictions.

But it may be argued that in the provision of the Charter extending the limits of the city of Manila for police purposes, nothing was said with reference to the concurrent jurisdiction of the courts of the city of Manila with that of the court's of the-adjoining provinces. This was not necessary. There are many cases in the books where the legislature has extended the jurisdiction of one court over territory formerly given to another court of like jurisdiction. The courts have held that the effect of extending the jurisdiction of one court over the territory formerly given to another, even without words of exclusion to the other court previously possessing like powers, has the effect of constituting the former court a court of concurrent jurisdiction with the latter.

Courtwright *vs*. Bear River, etc., 30 Cal., 573.
McNab *vs*. Heald, 41 111., 326.
State *vs*. Wister, 62 Mo., 592.
Ames *vs*, Kansas, 111 IL S., 449.
Bors *vs*. Preston, 111 U. 8., 252.
United States *vs*. Louisiana, 123 U. S., 32.

It has been argued that the city of Manila has been given police power to regulate tanneries, renderies, bone factories, match factories, and other dangerous, offensive, and unwholesome establishments; to regulate the storage and sale of gunpowder, turpentine, nitroglycerine, and other highly explosive and combustible

materials; to suppress houses of ill fame, gaming and gambling, and other fraudulent devices, used for the purpose of gain or of obtaining money or property through such games of chance, *within the city limits*, and that in the sections of said Charter delegating this power to the said city, no mention is made of the five-mile zone.

Suppose some person should erect a tannery or an establishment equally offensive and dangerous to the public health and safety, immediately beyond the limits of the city for ordinary municipal purposes, within the police zone and near a thickly populated district within the city. Would any citizen who is in favor of protecting the lives and property of the citizens doubt for a moment that when the Commission gave to the city of Manila police jurisdiction over this five-mile zone that it did not intend that the city, through the judicial department, should control, regulate, and abate, if necessary, such establishments, so obnoxious and dangerous? Certainly it would not take the good people of Manila long to decide that the Commission intended by section 3 of the city Charter to give to the city authority to control such conditions as have been supposed and over similar and equally detrimental institutions to the health, good morals, and safety of the people of the city of Manila.

Or, moreover, suppose some enterprising person should construct a houseboat with all the necessary conveniences for a pleasure resort out in Manila Bay, which is entirely within the range of possibilities, and where he would keep for sale all kinds of liquors, and should establish a bawdy house in connection with said houseboat and each night each returning ferry boat should let loose upon the streets of Manila a number of drunken persons—how long would it take the good order loving people of the city of Manila to decide that the United States Philippine Commission meant what it said in the Charter of the city when it said that the city had jurisdiction for police purposes, and that the police could go out upon Manila Bay within the three-mile limit and make arrests for violations of the Penal Code, and that there were courts within said city with jurisdiction to try such offenses against law and decency.

The municipality is the special agent of the State, to which the State delegates certain of its functions of government over certain denned territory. It is necessary to define the. territory in order that there may be no conflict between such agent and the State, or other agents of a like character, which may have like or different authority. The city may give to such agent power to exercise its authority, to exercise whatever function of government it may deem wise over such territory, as it thinks desirable and prudent, dependent upon the number and character of the population or inhabitants. The State may also give such agent the function of government over one prescribed territory for one purpose, and over another, either larger or smaller, for entirely different purposes. In each case the larger territory would constitute the municipality within which such municipality might exercise the particular functions of government given it by the State. This power is entirely within the authority of the State.

For example, by reason of the character of the inhabitants or the contour of the land, the State might give to a municipality the right to maintain schools in a territory much larger than that given for the maintenance of light or for the supply of water, or vice versa; and who would doubt the power of each and every department of the government of such municipality to exercise its particular authority in this additional territory? In other words, would not this additional territory be as effectually the territory of such municipality for the particular purposes of municipal government, as the smallest territory would be for the general purposes of municipal government, or the territory within which such agent might exercise its general functions? That is to say, the municipal board or the police or any other department of the Government, so far as it had any function at all relating to this particular branch of the government, would be as free to act within this larger territory as in the smaller territory. Or, in other words, the larger territory would constitute the municipality or city for the particular purpose for which it was created.

If the premises and conclusions assumed in this example are in harmony with the powers of the State, then what is the difference between that and the right to give the police power over additional

territory? When the United States Philippine Commission said in the charter of the city of Manila that said city could exercise police power only over this additional territory, it did not intend to divide the territory of the city into two distinct territories for police purposes, one in which that department of the government could exercise its powers in one way, and in the other in a different and more limited way. The United States Philippine Commission intended that whatever police power the city possessed, it would exercise throughout the entire city, including this additional territory. In other words, there was no line within the territory limiting the powers of the police in the exercise of their functions.

What has been said with reference to the schools and police is equally true of the courts of this city.

The Philippine Commission, by the Charter of the city of Manila, conferred upon said city the following powers :

> First. To take jurisdiction for police purposes over zone 3 miles from the shore line into Manila Bay and 5 miles in width surrounding said city.
>
> Second. That the police of the city of Manila might arrest and prosecute violators of any law within the said police jurisdiction.
>
> Third. The police of the said city were authorized within the said police jurisdiction to serve and execute criminal process of any court, expressly mentioning “all criminal processes of the Courts of First Instance of the city of Manila.”
>
> Fourth. The police of the city are authorized, within the.said police jurisdiction, to pursue and arrest, without warrant if necessary, any person who has committed or is about to commit *any crime*.
>
> Fifth.

> The municipal court of said city, while being limited in its jurisdiction to impose a final sentence, was given jurisdiction to conduct preliminary examinations for *any crime*, without regard to the limits of punishment and to commit such person in any such preliminary examination, to secure his appearance before the higher court.
>
> Sixth. The prosecuting attorney of the city of Manila, whose duty it is to prosecute all violators of the law, including ordinances, is the prosecuting officer of the Courts of First Instance of the city of Manila.

Thus it is seen that the Commission has given to the police of the city of Manila authority to arrest persons for violations of *any law* or ordinance, in the police jurisdiction of the city of Manila, mentioned in section 3, and take such arrested persons before the proper court. What is the proper court of the city of Manila for the trial of offenses over which the municipal court has no jurisdiction? Did the Commission mean to say that the police of the city of Manila, when arresting persons within this additional zone, under the authority given, should, in the first instance, decide for themselves whether the offense committed came within the jurisdiction of the municipal court of the city of Manila or the Court of First Instance; and then, second, if such police should determine that the offense committed was within the jurisdiction of the Court of First Instance, that then he should take such person before the Court of First Instance of the Province of Rizal? Such an interpretation certainly was not contemplated by the Philippine Commission in granting these powers to the city of Manila. The police of the city of Manila are not police officers for the Province of Rizal and have no authority to act as peace officers for the courts of that province.

This raises the question whether courts of equal jurisdiction may exercise jurisdiction over the same territory? This question has been answered in the affirmative by many courts. In almost all of the States of the Union, courts of adjoining districts are authorized to try

offenses committed within a certain distance beyond the limits of their respective districts. This limit varies from 100 yards to 500 yards. (Commonwealth *vs*. Guillom, 84 Mass., 502.)

But it may be answered in reply, that such authority is purely statutory. In reply to this argument, it is confidently asserted that the jurisdiction of the Courts of First Instance of the city of Manila over this additional zone is statutory and that the Charter of the city of Manila expressly provides that the Courts of First Instance may have jurisdiction over this zone.

Some stress is laid upon the fact that said section 3 uses the phrase "the jurisdiction of the city government." The word "government" adds nothing to this section. The section is the same as if it read "the jurisdiction of the city (of Manila)," etc. No confusion should arise from the use of the word "government."

It is also contended that the phrase "police purposes only" has a different signification and is more limited in its meaning than the phrase "police purposes." The attorney for the defendant and appellee here admits that the terms mean one and the same thing and are interchangeable.

The police powers of the city of Manila are enumerated in section 17 of its Charter; among these may be found the general police powers of the State, and the police of the city are given express authority to protect the people of said city in all things that pertain to their health, life, and property. The municipal court of the city is given a limited jurisdiction for the enforcement of this power, and the Court of First Instance, duly created by the Philippine Commission for the city, is given concurrent jurisdiction, in certain cases, with such municipal court, as well as complete jurisdiction for the same purposes, when the crime charged is a violation of the Penal Code.

The conclusion of the majority opinion in this case, in my opinion, clearly demonstrated the injustice of the rule adopted by this court in its decision in refusing even to consider the application for the writ

of *habeas corpus* presented by the said Collins on the 25th day of March, 1905. On that day the defendant Collins presented to this court, through his application for a writ of *habeas corpus*, exactly the question presented here now, and the court refused even to consider such application and remanded the cause to the Court of First Instance of the city of Manila for trial. The defendant has been languishing in jail since that day. More than five months have elapsed and this court now, passing upon the same question (jurisdiction of the inferior court to try him), holds that the inferior court had no jurisdiction and therefore orders his discharge from the custody of the law. Not only this, but there still remains the possibility of his being arrested again and taken before the Court of First Instance of the Province of Rizal and there tried again and subjected to another period of imprisonment before such trial can take place. And it is the duty of the prosecuting officer, if he believes the defendant is really guilty of the crime charged, to see to it that the defendant is arrested and taken before the court having jurisdiction of the offense with which he is charged. Had this court, when the same question was squarely presented in the month of March, considered and passed upon the same and announced the rule of law now announced, the defendant would have been relieved from embarrassment and expense of a trial in the Court of First Instance of Manila; but as it is he has borne the embarrassment and expense of one trial by a court which, according to the majority opinion here, has no jurisdiction, and is now confronted with the possibility of being subjected to the embarrassment and expense of another trial by a court which has jurisdiction. Inasmuch as it is now definitely determined that the Court of First Instance of the city of Manila has no jurisdiction to try him, he was not in legal jeopardy and may be placed on trial again for the same offense before a competent court. The defendant should have been relieved of much of this embarrassment by the consideration of the question presented by the defendant on March 25,1905.

My conclusion is that the Court of First Instance of the city of Manila has jurisdiction to try all crimes, punishable under the Penal Code, committed within the police jurisdiction of the said city, and

that this jurisdiction of said court is concurrent with, that of the Province of Rizal over what is known as the police zone.

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[1] Official Gazette of January 1, 1903, page 29; Vol. I, Public Laws, LXIII.

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