



**THE ATTORNEY GENERAL  
OF TEXAS**

GERALD C. MANN

~~XXXXXXXXXXXXXXXXXXXX~~  
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable H. D. Stringer  
County Attorney  
Hall County  
Memphis, Texas

Dear Sir:

Opinion No. 0-5416

Re: Lack of jurisdiction of Justice  
Court over a criminal violation  
of a city ordinance which viola-  
tion is not a violation of any  
State Law.

Your request for opinion has been received and care-  
fully considered by this department. We quote from your re-  
quest as follows:

"I would thank you to advise me whether a jus-  
tice of the peace would have jurisdiction to try a  
case involving a violation of a city ordinance in a  
city in which the justice of peace sits. There is  
no violation of a state law involved.

"Section 19, Article V, of the Constitution  
indicates that a justice of the peace may try any  
criminal case where the fine does not exceed \$200.00  
but I have been unable to find a case limiting this  
to violations of the state law."

Article V, Section 19, Texas Constitution, provides  
in part as follows:

"Justices of the peace shall have jurisdic-  
tion in criminal matters of all cases when the Penal-  
ty or fine to be imposed by law may not be more than  
two hundred dollars. . . ."

Section 118, Criminal Law, 12 Texas Jurisprudence,  
pages 396-7-8-9, reads as follows:

"§ 118. Corporation Courts. -- The Code of  
Criminal Procedure provides:

"The corporation court in each incorporated  
city, town or village of this State shall have jur-

isdiction within the corporate limits in all criminal cases arising under the ordinances of such city, town or village, and shall have concurrent jurisdiction with any justice of the peace in any precinct in which said city, town or village is situated in all criminal cases arising under the criminal laws of this State, in which punishment is by fine only, and where the maximum of such fine may not exceed two hundred dollars, and arising within such corporate limits.' (Art. 62, C.C.P.)

"This provision expressly gives corporation courts authority and jurisdiction to try offenses arising out of violations of municipal ordinances, and also to try offenses arising under the general penal laws of the State, within the limits prescribed.

"Under the amendment to the constitution giving the legislature power to 'establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof,' and to 'conform the jurisdiction of the district and other inferior courts thereto,' the legislature has power to give corporation courts jurisdiction to try persons for offenses against state laws. In prosecutions for offenses of this character the corporation courts have jurisdiction concurrently with any justice of the peace in any precinct in which the city is situated in all cases where the punishment is by fine only and where the maximum fine does not exceed two hundred dollars if the offense has been committed within the city limits; but the courts may not be given jurisdiction to try misdemeanor offenses punishable by imprisonment, at least in cities operating under the home rule provisions of the constitution; nor may they be clothed with exclusive jurisdiction over infractions of state laws to the exclusion of justices' courts or other courts created by the constitution." (Bracket insertion ours)

As far as we have been able to determine the question submitted by you has not been directly passed on by our Texas courts. However, in the case of *Ex parte Levine*, 81 S. W. 1206, where relator had been convicted in the city court of Corsicana for the violation of a city ordinance, we find the following significant language in the court's opinion:

"In regard to the corporation court in which relator was convicted, while I regard the effort

in the charter to constitute that a state court as futile and without effect (here the court cited several authorities), still this was a case exclusively cognizable by a municipal court as such, and it had jurisdiction to try and punish relator upon conviction of a municipal offense provided for by city ordinance." (Bracket insertion and underscoring ours)

It is our opinion that a justice court does not have criminal jurisdiction over a violation of a city ordinance which violation does not also constitute a violation of the penal law of the State.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By s/Wm. J. Fanning  
Wm. J. Fanning  
Assistant

WJF:db:wc

APPROVED JULY 1, 1943  
s/Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/BWB Chairman