court such facts as would probably convince the latter that the aggrieved party has a meritorious case.

Lastly, appellants also claim that the lower court erred in assuming jurisdiction over the case and issuing a writ of injunction against them, claiming that picketing is a legitimate exercise of freedom of speech and can not be enjoined in labor disputes. The only trouble with this contention is that the lower court made an express finding — which can not now be reviewed — that, at the time of the picketing, there was totally no employer-employee relations between plaintiff and appellants and the action was merely an ordinary one for damages and a restraining order.

WHEREFORE, the order appealed from is affirmed, with costs.

Bengzon, C.J., Padilla, Bautista Angelo, Concepcion, J.B.L. Reyes, Regala, and Makalintal, JJ., concurred.

Labrador and Barrera, JJ., took no part.

III

Vicente Martelino, petitioner-appellant, vs. Maximo Estrella, et al, respondents, G.R. No. L-15927, April 29. Regala, J.

1. CABARET; LIMITATION OF ITS ESTABLISHMENT. — A cabaret cannot be established, maintained and operated at a distance of less than 200 meters from public schools. (Sec. 1, Rep. Act 938 as amended by Rep. Acts 979 and 1224).
2. "CHAPEL"; DEFINED. — A "chapel" is a small house or subordinate place of worship; A christian sanctuary other than a parish or cathedral church.
3. "CHURCHES"; WHAT DO THEY INCLUDE. — When the law speaks of "churches" it includes all places suited to regular religious worship. In 7 words and Phrases 199, it is described as a "place where persons regularly assemble for worship." (citing Stubbs v. Texas Liquor Control Board, Tex. Cir. Appl. 166 S.W. 2d. 178, 180.)
4. CHAPEL; WHEN IT WOULD NOT FALL UNDER CATEGORY OF A CHURCH. — In a chapel where there is no regularity in the holding of religious services, would not fall under the category of "churches" as contemplated in the law.
5. ID.; CHURCHES; ESSENTIAL CHARACTERISTIC OF A CHURCH.—In fact, chapels are churches; only that they may be smaller than, or subordinate to, a principal church. The essential characteristic of a church, is the devotion of the place of religious services held with regularity, and not the size of the building or of the congregation that assembles therein. The fact that these two buildings in question are called "chapel" in no way alters the case (See Delgado, et al. v. Roque, et al., G.R. No. L-8260, May 27, 1955,)
6. ID.; ID.; A CHAPEL IS CONSIDERED A CHURCH.—In the Delgado, et al., v. Roque. et al., G.R. No. L-8260, May 27, 1955, it was held that the so-called chapel of the Seventh Day Adventist in Sta. Cruz, Laguna, which is located near a proposed cockpit, is considered a "church" within the meaning of the law involved in this case.

D E C I S I O N

This is an appeal from a decision of the Court of First Instance of Rizal dismissing the petition of Vicente Martelino for prohibition with preliminary injunction in Civil Case No. 4502.

The facts are undisputed. On April 1, 1956, the Municipal Council of Makati, Rizal, by Resolution No. 94, approved the application of Vicente Martelino to reopen the Tropical Night Spot cabaret located in Constancia street of said municipality.[1] Pursuant thereto, the Mayor of Makati issued the corresponding permit to said applicant.

Under date of January 22, 1957, the Executive Secretary, through the Provincial Governor of Rizal, sent a communication to the mayor, informing him that according to the records in his (Secretary's) office, there were two buildings within 200 meters from the cabaret, which were being rented for school purposes, and which made the operation of said amusement place violative of Republic Act No. 1224. The mayor was thus enjoined to revoke the permit he had issued.

Replying to the communication of the Executive Secretary, the mayor asked for reconsideration of the order, alleging that according to an investigation conducted by a committee created by the municipal council of Makati, the classroom annex which used to be near the site of the cabaret had already been transferred to a far away barrio.

Subsequently, however, the governor of Rizal again addressed a letter to the mayor stating that according to a survey conducted by his office, the cabaret in question is located 191.50 meters from the F. Benitez Elementary School Annex, 37.30 from a Catholic chapel and 178 meters from a chapel of the Iglesia ni Kristo. Likewise, the mayor was enjoined to comply with the directive of the Executive Secretary.

Accordingly, the mayor sent a letter to Martelino, ordering him to close the cabaret in question. But instead of complying, Martelino, on April 2, 1957 filed with the Court of First Instance of Rizal a petition for prohibition with preliminary injunction praying that the mayor's order of closure be declared null and void for having been issued without or in excess of authority or with grave abuse of discretion, and that the mayor be ordered to refrain from enforcing said order. As prayed for, a preliminary writ was issued before trial.

The Court of First Instance found that, although there was no school within 200 meters from the questioned cabaret, there were two chapels therein. Said court, therefore, dismissed the petition and dissolved the preliminary injunction, holding that the establishment of petitioner's cabaret is in violation of Republic Act No. 1224.

The petitioner appealed to the Court of Appeals, but that court certified the case to us, finding no factual question involved. The certification, however, contains a very clear recital of the facts.

The provision of law that meets interpretation is Section 1 of Republic Act 938, as amended by Republic Acts 979 and 1224, which reads:

> "Section 1. The Municipal or City board or council of each chartered city and the municipal council of each municipal district shall have the power to regulate or prohibit by ordinance the establishment, maintenance and operation of nightclubs, cabarets, dancing schools, pavilions, cockpits, bars, saloons, bowling alleys, billard pools, and other similar places of amusement within its territorial jurisdiction: Provided, **however, That no such places of amusement mentioned therein shall be established, maintained and/or operated within a radius of two hundred lineal meters** in the case of night clubs, **cabarets,** pavilions, or other similar places, and fifty lineal meters in case of dancing schools, bars, saloons, billiard pools, except cockpit the distance of which shall be left to the discretion of the municipal or city board or council from any public building, schools, hospitals and churches. x x x." (underscoring supplied.)

The only issue in this appeal is whether or not the two chapels, which are located within a radius of 200 meters to the cabaret in question may be considered churches within the meaning of the above quoted section of the law.

Petitioner argues that Republic Act 1224 speaks of "churches" and not "chapels," and following the principle of statutory construction **expressio unius est exclusio alterius,** the word "churches" should not be taken to include chapels. Petitioner further states that there is a sharp difference between church and chapel.

[1] Reopening of the same Tropical Night Spot was also denied by the decision of this Court in Provincial Governor of Rizal, et al. v. Hon. Demetrio Encarnacion, et al., G.R. No. L-7282, Nov. 29, 1964. for the reason that it stands less than 500 meters from public schools. (The distance, as now provided in the law, amended, is 200 meters.)

We do not agree with petitioner.

As appearing in Webster's Third International Dictionary, "chapel" is defined as follows:

"1. (a) small house or subordinate place of worship; A Christian sanctuary other than a parish or cathedral church.
(b) a church subordinate to and dependent on the principal parish church to which it is a supplement of some kind.

"2. A private place of worship.
(a) a building or portion of a building or institution (as a place, hospital, prison, college) set apart for private devotions and often also for private religious services.
(b) a room or recess in a church that often contains an altar and is separately dedicated and that is designed especially for meditation and prayer but is sometimes used for small religious services.
x x x x"

We believe that when the law speaks of "churches" it includes all places suited to regular religious worship. In 7 Words and Phrases 199, it is described as a "place where persons regularly assemble for worship. (citing Stubbs v. Texas Liquor Control Board, Tex. Cir. Appl. 166 S.W. 2d. 178, 180.)

There is no question that a chapel is also a place of worship, but, of course, there are chapels where religious services are not held regularly, as in Webster's definition 2 (a) and (b) above stated. Undoubtedly, those kinds of chapel, where there is no regularity in the holding of religious services, would not fall under the category of "churches" as contemplated in the law.

The two chapels in question are, as found by both the Court of First Instance and the Court of Appeals, intended for the holding regularly of religious services. It appears that the Iglesia ni Kristo chapel, although alleged to be located on a borrowed lots, has its own pastor and services are held there regularly until a permanent one is built. The Catholic chapel, on the other hand, although formerly only a sort of **camalig** in 1947, has been improved since then by the townspeople and has now a galvanized iron roofing, wood sidings and cement foundations. Before 1954, the people, every now and then, used to invite the parish priest of the town to hold mass there. Beginning that year, however, thru the initiative of members of the Catholic Action, mass has been celebrated there every Sunday and on special occasions.

The above descriptions reveal no serious difference between the chapels in question from a church. In fact, they are churches; only that they may be smaller than, or subordinate to, a principal church. The essential characteristic of a church, as already explained, is the devotion of the place to religious services held with regularity, and not the size of the building or of the congregation that assembles therein. The fact that these two buildings in question are called "chapel" in no way alters the case (See Delgado, et al. v. Roque, et al., G.R. No. L-8260, May 27, 1955.)

In the Delgado, et al. v. Roque, et al. case, **supra**, this Court has held that the so-called chapel of the Seventh Day Adventist in Sta. Cruz, Laguna, which is located near a proposed cockpit, is considered a "church" within the meaning of the law involved in this case.

In view of the foregoing, the decision appealed from is hereby affirmed. Costs against the petitioner.

Bengzon, C.J., Bautista Angelo, Labrador, Concepcion, Barra, Paredes, Dizon and Makalintal, JJ., concurred.

Padilla and Reyes, J.B.L., JJ., took no part.