

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ANG TANG HO, DEFENDANT AND APPELLANT.

G. R. No. 17122. February 27, 1922

Ponente: JOHNS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-17122/>

JOHNS, J.:

At its special session of 1919, the Philippine Legislature passed Act No. 2868, entitled "An Act penalizing the monopoly and hoarding of, and speculation in, palay, rice, and corn under extraordinary circumstances, regulating the distribution and sale thereof, and authorizing the Governor-General, with the consent of the Council of State, to issue the necessary rules and regulations therefor, and making an appropriation for this purpose," the material provisions of which are as follows:

"Section 1. The Governor-General is hereby authorized, whenever, for any cause, conditions arise resulting in an extraordinary rise in the price of palay, rice or corn, to issue and promulgate, with the consent of the Council of State, temporary rules and emergency measures for carrying out the purposes of this Act, to wit:

"(a) To prevent the monopoly and hoarding of, and speculation in, palay, rice or corn.

"(b) To establish and maintain a government control of the distribution or sale of the commodities referred to or have such distribution or sale made by the Government itself.

"(c) To fix, from time to time, the quantities of palay, rice, or corn that a company or individual may acquire, and the maximum sale price that the industrial or merchant may demand.

"(d) * * *

"SEC. 2. It shall be unlawful to destroy, limit, prevent or in any other manner obstruct the production or milling of palay, rice or corn for the purpose of raising the prices thereof; to corner or hoard said products as defined in section three of this Act; * * *"

Section 3 defines what shall constitute a monopoly or hoarding of palay, rice or corn within the meaning of this Act, but does not specify the price of rice or define any basis for fixing the price.

"SEC. 4. The violations of any of the provisions of this Act or of the regulations, orders and decrees promulgated in accordance therewith shall be punished by a fine of not more than five thousand pesos, or by imprisonment for not more than two years, or, both, in the discretion of the court: Provided, That in the case of companies or corporations, the manager or administrator shall be criminally liable.

"SEC. 7. At any time that the Governor-General, with the consent of the Council of State, shall consider that the public interest requires the application of the provisions of this Act, he shall so declare by proclamation, and any provisions of other laws inconsistent herewith shall from then on be temporarily suspended.

"Upon the cessation of the reasons for which such proclamation was issued, the Governor-General, with the consent of the Council of State, shall declare the application of this Act to have likewise terminated, and all laws temporarily suspended by virtue of the same shall again take effect, but such termination shall not prevent

the prosecution of any proceedings or cause begun prior to such termination, nor the filing of any proceedings for an offense committed during the period covered by the Governor-General's proclamation." '

August 1, 1919, the Governor-General issued a proclamation fixing the price at which rice should be sold.

August 8, 1919, a complaint was filed against the defendant, Ang Tang Ho, charging him with the sale of rice at an excessive price as follows:

"The undersigned accuses Ang Tang Ho of a violation of Executive Order No. 53 of the Governor-General of the Philippines, dated the 1st of August, 1919, in relation with the provisions of sections 1, 2 and 4 of Act No. 2868, committed as follows:

"That on or about the 6th day of August, 1919, in the city of Manila, Philippine Islands, the said Ang Tang Ho, voluntarily, illegally and criminally sold to Pedro Trinidad, one ganta of rice at the price of eighty centavos (P.80), which is a price greater than that fixed by Executive Order No. 53 of the Governor-General of the Philippines, dated the 1st of August, 1919, under the authority of section 1 of Act No. 2868. Contrary to law."

Upon this charge, he was tried, found guilty and sentenced to five months' imprisonment and to pay a fine of P500, from which he appealed to this court, claiming that the lower court erred in finding Executive Order No. 53 of 1919, to be of any force and effect, in finding the accused guilty of the offense charged, and in imposing the sentence.

The official records show that the Act was to take effect on its approval; that it was approved July 30, 1919; that the Governor-General issued his proclamation on the 1st of August, 1919; and that the law was first published on the 13th of August, 1919; and that the proclamation itself was first published on the 20th of August, 1919.

The question here involves an analysis and construction of Act No. 2868, in so far as it authorizes the Governor-General to fix the price at which rice should be sold. It will be noted that section 1 authorizes the Governor-General, with the consent of the Council of State, for any cause resulting in an extraordinary rise in the price of palay, rice or corn, to issue and promulgate temporary rules and emergency measures for carrying out the purposes of the Act. By its very terms, the promulgation of temporary rules and emergency measures is left to the discretion of the Governor-General. The Legislature does not undertake to specify or define under what conditions or for what reasons the Governor-General shall issue the proclamation, but says that it may be issued "for any cause," and leaves the question as to what is "any cause" to the discretion of the Governor-General. The Act also says: "For any cause, conditions arise resulting in an extraordinary rise in the price of palay, rice or corn." The Legislature does not specify or define what is "an extraordinary rise." That is also left to the discretion of the Governor-General. The Act also says that the Governor-General, "with the consent of the Council of State," is authorized to issue and promulgate "temporary rules and emergency measures for carrying out the purposes of this Act." It does not specify or define what is a temporary rule or an emergency measure, or how long such temporary rules or emergency measures shall remain in force and effect, or when they shall take effect. That is to say, the Legislature itself has not in any manner specified or defined any basis for the order, but has left it to the sole judgment and discretion of the Governor-General to say what is or what is not "a cause," and what is or what is not "an extraordinary rise in the price of rice," and as to what is a temporary rule or an emergency measure for the carrying out the purposes of the Act. Under this state of facts, if the law is valid and the Governor-General issues a proclamation fixing the minimum price at which rice should be sold, any dealer who, with or without notice, sells rice at a higher price, is a criminal. There may not have been any cause, and the price may not have been extraordinary, and there may not have been an emergency, but, if the Governor-General found the existence of such facts and issued a proclamation, and rice is sold at any higher price, the seller commits a crime.

By the organic law of the Philippine Islands and the Constitution of the United States all powers are vested in the

Legislative, Executive and Judiciary. It is the duty of the Legislature to make the law; of the Executive to execute the law; and of the Judiciary to construe the law. The Legislature has no authority to execute or construe the law, the Executive has no authority to make or construe the law, and the Judiciary has no power to make or execute the law. Subject to the Constitution only, the power of each branch is supreme within its own jurisdiction, and it is for the Judiciary only to say when any Act of the Legislature is or is not constitutional. Assuming, without deciding, that the Legislature itself has the power to fix the price at which rice is to be sold, can it delegate that power to another, and, if so, was that power legally delegated by Act No. 2868? In other words, does the Act delegate legislative power to the Governor-General? By the Organic Law, all legislative power is vested in the Legislature, and the power conferred upon the Legislature to make laws cannot be delegated to the Governor-General, or any one else. The Legislature cannot delegate the legislative power to enact any law. If Act No. 2868 is a law unto itself and within itself, and it does nothing more than to authorize the Governor-General to make rules and regulations to carry the law into effect, then the Legislature itself created the law. There is no delegation of power and it is valid. On the other hand, if the Act within itself does not define a crime, and is not a law, and some legislative act remains to be done to make it a law or a crime, the doing of which is vested in the Governor-General, then the Act is a delegation of legislative power, is unconstitutional and void.

The Supreme Court of the United States in what is known as the Granger Cases (94 U. S., 183-187; 24 L. ed., 94), first laid down the rule:

"Railroad companies are engaged in a public employment affecting the public interest and, under the decision in *Munn vs. Ill.*, ante, 77, are subject to legislative control as to their rates of fare and freight unless protected by their charters.

"The Illinois statute of Mar. 23, 1874, to establish reasonable maximum rates of charges for the transportation of freights and passengers on the different railroads of the State is not void as being repugnant to the Constitution of the United States or to that of the State."

It was there for the first time held in substance that a railroad was a public utility, and that, being a public utility, the State had power to establish reasonable maximum freight and passenger rates. This was followed by the State of Minnesota in enacting a similar law, providing for, and empowering, a railroad commission to hear and determine what was a just and reasonable rate. The constitutionality of this law was attacked and upheld by the Supreme Court of Minnesota in a learned and exhaustive opinion by Justice Mitchell, in the case of *State vs. Chicago, Milwaukee & St. Paul Ry. Co.* (38 Minn., 281), in which the court held:

"Regulation of railway tariffs—Conclusiveness of commission's tariffs.—Under Laws 1887, e. 10, sec. 8, the determination of the railroad and warehouse commission as to what are equal and reasonable fares and rates for the transportation of persons and property by a railway company is conclusive, and, in proceedings by mandamus to compel compliance with the tariff of rates recommended and published by them, no issue can be raised or inquiry had on that question.

"Same—Constitution—Delegation of power to commission.—The authority thus given to the commission to determine, in the exercise of their discretion and judgment, what are equal and reasonable rates, is not a delegation of legislative power."

It will be noted that the law creating the railroad commission expressly provides—

"That all charges by any common carrier for the transportation of passengers and property shall be equal and reasonable."

With that as a basis for the law, power is then given to the railroad commission to investigate all the facts, to hear and determine what is a just and reasonable rate. Even then that law does not make the violation of the order of

the commission a crime. The only remedy is a civil proceeding. It was there held—

"That the legislature itself has the power to regulate railroad charges is now too well settled to require either argument or citation of authority.

"The difference between the power to say what the law shall be, and the power to adopt rules and regulations, or to investigate and determine the facts, in order to carry into effect a law already passed, is apparent. The true distinction is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and the conferring an authority or discretion to be exercised under and in pursuance of the law.

"The legislature enacts that all freight rates and passenger fares should be just and reasonable. It had the undoubted power to fix these rates at whatever it deemed equal and reasonable.

"They have not delegated to the commission any authority or discretion as to what the law shall be,—which would not be allowable,—but have merely conferred upon it an authority and discretion, to be exercised in the execution of the law, and under and in pursuance of it, which is entirely permissible. The legislature itself has passed upon the expediency of the law, and what it shall be. The commission is intrusted with no authority or discretion upon these questions. It can neither make nor unmake a single provision of law. It is merely charged with the administration of the law, and with no other power."

The delegation of legislative power was before the Supreme Court of Wisconsin in *Dowling vs. Lancashire Ins. Co.* (92 Wis., 63). The opinion says:

"The true distinction is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made.'

"The act, in our judgment, wholly fails to provide definitely and clearly what the standard policy should contain, so that it could be put in use as a uniform policy required to take the place of all others, without the determination of the insurance commissioner in respect to matters involving the exercise of a legislative discretion that could not be delegated, and without which the act could not possibly be put in use as an act in conformity to which all fire insurance policies were required to be issued.

"The result of all the cases on this subject is that a law must be complete, in all its terms and provisions, when it leaves the legislative branch of the government, and nothing must be left to the judgment of the electors or other appointee or delegate of the legislature, so that, in form and substance, it is a law in all its details in present, but which may be left to take effect in futuro, if necessary, upon the ascertainment of any prescribed fact or event."

The delegation of legislative power was before the Supreme Court in *United States vs. Grimaud* (220 U. S., 506; 55 L. ed., 563), where it was held that the rules and regulations of the Secretary of Agriculture as to a trespass on government land in a forest reserve were valid and constitutional. The Act there provided that the Secretary of Agriculture " * * * may make such rules and regulations and establish such service as will insure the objects of such reservations; namely, to regulate their occupancy and use, and to preserve the forests thereon from destruction; and any violation of the provisions of this act or such rules and regulations shall be punished, * * *"

The brief of the United States Solicitor-General says:

"In refusing permits to use a forest reservation for stock grazing, except upon stated terms or in stated ways, the Secretary of Agriculture merely asserts and enforces the proprietary right of the United States over land which it owns. The regulation of the Secretary, therefore, is not an exercise of legislative, or even of administrative, power; but is an ordinary and legitimate refusal of the landowner's authorized agent to allow

persons having no right in the land to use it as they: will. The right of proprietary control is altogether different from governmental authority."

The opinion says:

"From the beginning of the government, various acts have been passed conferring upon executive officers power to make rules and regulations,-not for the government of their departments, but for administering the laws which did govern. None of these statutes could confer legislative power. But when Congress had legislated and indicated its will, it could give to those who were to act under such general provisions 'power to fill up the details' by the establishment of administrative rules and regulations, the violation of which could be punished by fine or imprisonment fixed by Congress, or by penalties fixed by Congress, or measured by the injury done.

"That 'Congress cannot delegate legislative power is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution.'

"If, after the passage of the act and the promulgation of the rule, the defendants drove and grazed their sheep upon the reserve, in violation of the regulations, they were making an unlawful use of the government's property. In doing so they thereby made themselves liable to the penalty imposed by Congress."

"The subjects as to which the Secretary can regulate are denned. The lands are set apart as a forest reserve. He is required to make provision to protect them from depredations and from harmful uses. He is authorized 'to regulate the occupancy and use and to preserve the forests from destruction.' A violation of reasonable rules regulating the use and occupancy of the property is made a crime, not by the Secretary, but by Congress."

The above are leading cases in the United States on the question of delegating legislative power. It will be noted that in the "Granger Cases," it was held that a railroad company was a public corporation, and that a railroad was a public utility, and that, for such reasons, the legislature had the power to fix and determine just and reasonable rates for freight and passengers.

The Minnesota case held that, so long as the rates were just and reasonable, the legislature could delegate the power to ascertain the facts and determine from the facts what were just and reasonable rates, and that in vesting the commission with such power was not a delegation of legislative power.

The Wisconsin case was a civil action founded upon a "Wisconsin standard policy of fire insurance," and the court held that "the act, * * * wholly fails to provide definitely and clearly what the standard policy should contain, so that it could be put in use as a uniform policy required to take the place of all others, without the determination of the insurance commissioner in respect to matters involving the exercise of a legislative discretion that could not be delegated."

The case of the United States Supreme Court, *supra*, dealt with rules and regulations which were promulgated by the Secretary of Agriculture for Government land in the forest reserve.

These decisions hold that the legislature only can enact a law, and that it cannot delegate its legislative authority.

The line of cleavage between what is and what is not a delegation of legislative power is pointed out and clearly defined. As the Supreme Court of Wisconsin says:

"That no part of the legislative power can be delegated by the legislature to any other department of the government, executive or judicial, is a fundamental principle in constitutional law, essential to the integrity and maintenance of the system of government established by the constitution.

"Where an act is clothed with all the forms of law, and is complete in and of itself, it may be provided that it shall become operative only upon some certain act or event, or, in like manner, that its operation shall be

suspended.

"The legislature cannot delegate its power to make a law, but it can make a law to delegate a power to determine some fact or state of things upon which the law makes, or intends to make, its own action to depend."

The Village of Little Chute enacted an ordinance which provides:

"All saloons in said village shall be closed at 11 o'clock P. M. each day and remain closed until 5 o'clock on the following morning, unless by special permission of the president."

Construing it in 136 Wis., 526; 128 A. S. R., 1100,[1] the Supreme Court of that State says:

"We regard the ordinance as void for two reasons: First, because it attempts to confer arbitrary power upon an executive officer, and allows him, in executing the ordinance, to make unjust and groundless discriminations among persons similarly situated; second, because the power to regulate saloons is a law-making power vested in the village board, which cannot be delegated. A legislative body cannot delegate to a mere administrative officer power to make a law, but it can, make a law with provisions that it shall go into effect or be suspended in its operation upon the ascertainment of a fact or state of facts by an administrative officer or board. In the present case the ordinance by its terms gives power to the president to decide arbitrarily, and in the exercise of his own discretion, when a saloon shall close. This is an attempt to vest legislative discretion in him, and cannot be sustained."

The legal principle involved there is squarely in point here.

It must be conceded that, after the passage of Act No. 2868, and before any rules and regulations were promulgated by the Governor-General, a dealer in rice could sell it at any price, even at a peso per "ganta," and that he would not commit a crime, because there would be no law fixing the price of rice, and the sale of it at any price would not be a crime. That is to say, in the absence of a proclamation, it was not a crime to sell rice at any price. Hence, it must follow that, if the defendant committed a crime, it was because the Governor-General issued the proclamation. There was no act of the Legislature making it a crime to sell rice at any price, and without the proclamation, the sale of it at any price was not a crime.

The Executive Order[1] provides:

"(5) The maximum selling price of palay, rice or corn is hereby fixed, for the time being as follows:

"In Manila—

"Palay at P6.75 per sack of 57 1/2kilos, or 29 centavos per ganta.

"Rice at P15 per sack of 57 1/2kilos, or 63 centavos per ganta.

"Corn at P8 per sack of 57 1/2 kilos, or 34 centavos per ganta.

"In the provinces producing palay, rice and corn, the maximum price shall be the Manila price less the cost of transportation from the source of supply and necessary handling expenses to the place of sale, to be determined by the provincial treasurers or their deputies.

"In provinces, obtaining their supplies from Manila or other producing provinces, the maximum price shall be the authorized price at the place of supply or the Manila price as the case may be, plus the transportation cost, from the place of supply and the necessary handling expenses, to the place of-sale, to be determined by the provincial treasurers or their deputies.

"(6) Provincial treasurers and their deputies are hereby directed to communicate with, and execute all

instructions emanating from the Director of Commerce and Industry, for the most effective and proper enforcement of the above regulations in their respective localities."

The law says that the Governor-General may fix "the maximum sale price that the industrial or merchant may demand."

The law is a general law and not a local or special law.

The proclamation undertakes to fix one price for rice in Manila and other and different prices in other and different provinces in the Philippine Islands, and delegates the power to determine the other and different prices to provincial treasurers and their deputies. Here, then, you would have a, delegation of legislative power to the Governor-General, and a delegation by him of that power to provincial treasurers and their deputies, who "are hereby directed to communicate with, and execute all instructions emanating from the Director of Commerce and Industry, for the most effective and proper enforcement of the above regulations in their respective localities." The issuance of the proclamation by the Governor-General was the exercise of the delegation of a delegated power, and was even a sub-delegation of that power.

Assuming that it is valid, Act No. 2868 is a general law and does not authorize the Governor-General to fix one price of rice in Manila and another price in Iloilo. It only purports to authorize him to fix the price of rice in the Philippine Islands under a law, which is general and uniform, and not local or special. Under the terms of the law, the price of rice fixed in the proclamation must be the same all over the Islands. There cannot be one price at Manila and another at Iloilo. Again, it is a matter of common knowledge, and of which this court will take judicial notice, that there are many kinds of rice with different and corresponding market values, and that there is a wide range in the price, which varies with the grade and quality. Act No. 2868 makes no distinction in price for the grade or quality of the rice, and the proclamation, upon which the defendant was tried and convicted, fixes the selling price of rice in Manila "at P15 per sack of 57 1/2 kilos, or 63 centavos per ganta," and is uniform as to all grades of rice, and says nothing about grade or quality. Again, it will be noted that the law is confined to palay, rice and corn. They are products of the Philippine Islands. Hemp, tobacco, cocoanut, chickens, eggs, and many other things are also products. Any law which singles out palay, rice or corn from the numerous other products of the Islands is not general or uniform, but is a local or special law. If such a law is valid, then by the same principle, the Governor-General could be authorized by proclamation to fix the price of meat, eggs, chickens, cocoanut, hemp, and tobacco, or any other product of the Islands. In the very nature of things, all of that class of laws should be general and uniform. Otherwise, there would be an unjust discrimination of property rights, which, under the law, must be equal and uniform. Act No. 2868 is nothing more than a floating law, which, in the discretion and by a proclamation of the Governor-General, makes it a floating crime to sell rice at a price in excess of the proclamation, without regard to grade or quality.

When Act No. 2868 is analyzed, it is the violation of the proclamation of the Governor-General which constitutes the crime. Without that proclamation, it was no crime to sell rice at any price. In other words, the Legislature left it to the sole discretion of the Governor-General to say what was and what was not "any cause" for enforcing the act, and what was and what was not "an extraordinary rise in the price of palay, rice or corn," and under certain undefined conditions to fix the price at which rice should be sold, without regard to grade or quality, also to say whether a proclamation should be issued, if so, when, and whether or not the law should be enforced, how long it should be enforced, and when the law should be suspended. The Legislature did not specify or define what was "any cause," or what was "an extraordinary rise in the price of rice, palay or corn." Neither did it specify or define the conditions upon which the proclamation should be issued. In the absence of the proclamation no crime was committed. The alleged sale was made a crime, if at all, because the Governor-General issued the proclamation. The act or proclamation does not say anything about the different grades or qualities of rice, and the defendant is

charged with the sale "of one ganta of rice at the price of eighty centavos (P0.80) which is a price greater than that fixed by Executive Order No. 53."

We are clearly of the opinion and hold that Act No, 2868, in so far as it undertakes to authorize the Governor-General in his discretion to issue a proclamation, fixing the price of rice, and to make the sale of rice in violation of the proclamation a crime, is unconstitutional and void.

It may be urged that there was an extraordinary rise in the price of rice and profiteering, which worked a severe hardship on the poorer classes, and that an emergency existed, but the question here presented is the constitutionality of a particular portion of a statute, and none of such matters is an argument for, or against, its constitutionality.

The Constitution is something solid, permanent and substantial. Its stability protects the life, liberty and property rights of the rich and the poor alike, and that protection ought not to change with the wind or any emergency condition. The fundamental question involved in this case is the right of the people of the Philippine Islands to be and live under a republican form of government. We make the broad statement that no state or nation, living under a republican form of government, under the terms and conditions specified in Act No. 2868, has ever enacted a law delegating the power to any one, to fix the price at which rice should be sold. That power can never be delegated under a republican form of government.

In the fixing of the price at which the defendant should sell his rice, the law was not dealing with government property. It was dealing with private property and private rights, which are sacred under the Constitution. If this law should be sustained, upon the same principle and for the same reason, the Legislature could authorize the Governor-General to fix the price of every product or commodity in the Philippine Islands, and empower him to make it a crime to sell any product at any other or different price.

It may be said that this was a war measure, and that for such reason the provision of the Constitution should be suspended. But the stubborn fact remains that at all times the judicial power was in full force and effect, and that while that power was in force and effect, such a provision of the Constitution could not be, and was not, suspended even in times of war. It may be claimed that during the war, the United States Government undertook to, and did, fix the price at which wheat and flour should be bought and sold, and that is true. There, the United States had declared war, and at the time was at war with other nations, and it was a war measure, but it is also true that in doing so, and as a part of the same act, the United States commandeered all the wheat and flour, and took possession of it, either actual or constructive, and the government itself became the owner of the wheat and flour, and fixed the price to be paid for it. That is not this case. Here, the rice sold was the personal and private property of the defendant, who sold it to one of his customers. The government had not bought and did not claim to own the rice, or have any interest in it, and at the time of the alleged sale, it was the personal, private property of the defendant. It may be that the law was passed in the interest of the public, but the members of this court have taken a solemn oath to uphold and defend the Constitution, and it ought not to be construed to meet the changing winds or emergency conditions. Again, we say that no state or nation under a republican form of government ever enacted a law authorizing any executive, under the conditions stated, to fix the price at which a private person would sell his own rice, and make the broad statement that no decision of any court, on principle or by analogy, will ever be found which sustains the constitutionality of that particular portion of Act No. 2868 here in question. By the terms of the Organic Act, subject only to constitutional limitations, the power to legislate and enact laws is vested exclusively in the Legislature, which is elected by a direct vote of the people of the Philippine Islands. As to the question here involved, the authority of the Governor-General to fix the maximum price at which palay, rice and, corn may be sold in the manner and under the conditions stated is a delegation of legislative power in violation of the organic law. This opinion is confined to the particular question here involved, which is the right of

the Governor-General, upon the terms and conditions stated in the Act, to fix the price of rice and make it a crime to sell it at a higher price, and which holds that portion of the Act unconstitutional. It does not decide or undertake to construe the constitutionality of any of the remaining portions of the Act.

The judgment of the lower court is reversed, and the defendant discharged. So ordered.

Araullo, C. J., Johnson, Street, and Ostrand, JJ, concur.

Romualdez, J., concurs in the result.

[1]Village of Little Chute vs. Van Camp.

[1]Executive Order No. 53, series of 1919.

CONCURRING

MALCOLM, J., with whom concur AVACENÑA and VILLAMOR, JJ.,

I concur in the result for reasons which reach both the facts and the law. In the first place, as to the facts,—one cannot be convicted ex post facto of a violation of a law and of an executive order issued pursuant to the law, when the alleged violation thereof occurred on August 6, 1919, while the Act of the Legislature in question was not published until August 13, 1919, and the order was not published until August 20, 1919. In the second place, as to the law,—one cannot be convicted of a violation of a law or of an order issued pursuant to the law when both the law and the order fail to set up an ascertainable standard of guilt. (U. S. vs. Cohen Grocery Company [1921], 255 U. S., 81, holding section 4 of the Federal Food Control Act of August 10, 1917, as amended, invalid.)

In order that there may not be any misunderstanding of our position, I would respectfully invite attention to the decision of the United States Supreme Court in German Alliance Ins. Co. vs. Lewis ([1914], 233 U. S., 389), concerning the legislative regulation of the prices charged by businesses affected with a public interest, and to another decision of the United States Supreme Court, that of Marshall Field & Co. vs. Clark ([1892], 143 U. S., 649), which adopts as its own the principle laid down in the case of Locke's Appeal ([1873], 72 Pa. St., 491), namely: "The Legislature cannot delegate its power to make a law; but it can make a law to delegate a power to determine some fact or state of things upon which; the law makes, or intends to make, its own action depend. To deny this would be to stop the wheels of government. There are many things upon which wise and useful legislation must depend which cannot be known to the law-making power, and must, therefore, be a subject of inquiry and determination outside of the halls of legislation."

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.