

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GO CHICO, DEFENDANT AND APPELLANT.

G.R. No. 4963. September 15, 1909

Ponente: MORELAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4963/>

MORELAND, J.:

The defendant is charged with the violation of section 1 of Act No. 1696 of the Philippine Commission, which reads as follows:

"Any person who shall expose, or cause or permit to be exposed, to public view on his own premises, or who shall expose, or cause to be exposed, to public view, either on his own premises or elsewhere, any flag, banner, emblem, or device used during the late insurrection in the Philippine Islands to designate or identify those in armed rebellion against the United States, or any flag, banner, emblem, or device used or adopted at any time by the public enemies of the United States in the Philippine Islands for the purposes of public disorder or of rebellion or insurrection against the authority of the United States in the Philippine Islands, or any flag, banner, emblem, or device of the Katipunan Society, or which is commonly known as such, shall be punished by a fine of not less than five hundred pesos nor more than five thousand pesos, or by imprisonment for not less than three months nor more than five years, or by both such fine and imprisonment, in the discretion of the court."

The defendant was tried in the Court of First Instance of the city of Manila on the 8th day of September, 1908. After hearing the evidence adduced the court adjudged the defendant guilty of the crime charged and sentenced him under that judgment to pay a fine of P500, Philippine currency, and to pay the costs of the action, and to suffer subsidiary imprisonment during the time and in the form and in the place prescribed by law until said fine should be paid. From that judgment and sentence the defendant appealed to this court.

A careful examination of the record brought to this court discloses the following facts:

That on or about the 4th day of August, 1908, in the city of Manila, the appellant Go Chico displayed in one of the windows and one of the show cases of his store, No. 89 Calle Rosario, a number of medallions, in the form of a small button, upon the faces of which were imprinted in miniature the picture of Emilio Aguinaldo, and the flag or banner or device used during the late insurrection in the Philippine Islands to designate and identify those in armed insurrection against the United States. On the day previous to the one above set forth the appellant had purchased the stock of goods in said store, of which the medallions formed a part, at a public sale made under authority of the sheriff of the city of Manila. On the day in question, the 4th of August aforesaid, the appellant was arranging his stock of goods for the purpose of displaying them to the public and in so doing placed in his showcase and in one of the windows of his store the medallions described. The appellant was ignorant of the existence of a law against the display of the medallions in question and had consequently no corrupt intention. The facts above stated are admitted.

The appellant rests his right to acquittal upon two propositions:

First. That before a conviction under the law cited can be had, a criminal intent upon the part of the accused must

be proved beyond a reasonable doubt.

Second. That the prohibition of the law is directed against the use of the identical banners, devices, or emblems actually used during the Philippine insurrection by those in armed rebellion against the United States.

In the opinion of this court it is not necessary that the appellant should have acted with criminal intent. In many crimes, made such by statutory enactment, the intention of the person who commits the crime is entirely immaterial. This is necessarily so. If it were not, the statute as a deterrent influence would be substantially worthless. It would be impossible of execution. In many cases the act complained of is itself that which produces the pernicious effect which the statute seeks to avoid. In those cases the pernicious effect is produced with precisely the same force and result whether the intention of the person performing the act is good or bad. The case at bar is a perfect illustration of this. The display of a flag or emblem used, particularly within a recent period, by the enemies of the Government tends to incite resistance to governmental functions and insurrection against governmental authority just as effectively if made in the best of good faith as if made with the most corrupt intent. The display itself, without the intervention of any other factor, is the evil. It is quite different from that large class of crimes, made such by the common law or by statute, in which the injurious effect upon the public depends upon the corrupt intention of the person perpetrating the act. If A discharges a loaded gun and kills B, the interest which society has in the act depends, not upon B's death, but upon the intention with which A consummated the act. If the gun were discharged intentionally, with the purpose of accomplishing the death of B, then society has been injured and its security violated; but if the gun was discharged accidentally on the part of A, then society, strictly speaking, has no concern in the matter, even though the death of B results. The reason for this is that A does not become a danger to society and its institutions until he becomes a person with a corrupt mind. The mere discharge of the gun and the death of B do not of themselves make him so. With those two facts must go the corrupt intent to kill. In the case at bar, however, the evil to society and to the Government does not depend upon the state of mind of the one who displays the banner, but upon the effect which that display has upon the public mind. In the one case the public is affected by the intention of the actor; in the other by the act itself.

It is stated in volume 12 of Cyc, page 148, that-

"The legislature, however, may forbid the doing of an act and make its commission a crime without regard to the intent of the doer, and if such an intention appears the courts must give it effect although the intention may have been innocent. Whether or not in a given case the statute is to be so construed is to be determined by the court by considering the subject-matter of the prohibition as well as the language of the statute, and thus ascertaining the intention of the legislature."

In the case of *The People vs. Kibler* (106 N. Y., 321) the defendant was charged with the sale of adulterated milk under a statute reading as follows:

"No person or persons shall sell or exchange or expose for sale or exchange any unclean, impure, unhealthy, adulterated, of unwholesome milk."

It was proved in that case that one Vandenburg purchased at the defendant's store 1 pint of milk which was shown to contain a very small percentage of water more than that permitted by the statute. There was no dispute about the facts, but the objection made by the defendant was that he was not allowed, upon the trial, to show an absence of criminal intent, or go to the jury upon the question whether it existed, but was condemned under a charge from the court which made his intent totally immaterial and his guilt consist in having sold the adulterated article whether he knew it or not and however carefully he may have sought to keep on hand and sell the genuine article.

The opinion of the court in that case says:

"As the law stands, knowledge or intention forms no element of the offense. The act alone, irrespective of its

motive, constitutes the crime.

* * * * *

"It is notorious that the adulteration of food products has grown to proportions so enormous as to menace the health and safety of the people. Ingenuity keeps pace with greed, and the careless and heedless consumers are exposed to increasing perils. To redress such evils is a plain duty but a difficult task. Experience has taught the lesson that repressive measures which depend for their efficiency upon proof of the dealer's knowledge or of his intent to deceive and defraud are of little use and rarely accomplish their purpose. Such an emergency may justify legislation which throws upon the seller the entire responsibility of the purity and soundness of what he sells and compels him to know and to be certain."

In the case of *Gardner vs. The People* (62 N. Y., 299) the question arose under a statute which provided that an inspector of elections of the city of New York should not be removed from office except "after notice in writing to the officer sought to be removed, which notice shall set forth clearly and distinctly the reasons for his removal and further provided that any person who removed such an officer without such notice should be guilty of a misdemeanor. An officer named Sheridan was removed by Gardner, the defendant, without notice. Gardner was arrested and convicted of a misdemeanor under the statute. He appealed from the judgment of conviction and the opinion from which the following quotation is made was written upon the decision of that appeal. Chief Justice Church, writing the opinion of the court, says in relation to criminal intent:

"In short, the defense was an honest misconstruction of the law under legal advice. The court ruled out the evidence offered, and held that intentionally doing the act prohibited constituted the offense. It is quite clear that the facts offered to be shown, if true, would relieve the defendant from the imputation of a corrupt intent, and, indeed, from any intent to violate the statute. The defendants made a mistake of law. Such mistakes do not excuse the commission of prohibited acts. 'The rule on the subject appears to be, that in acts mala in se, the intent governs but in those mala prohibita, the only inquiry is, has the law been violated?'

* * * * *

"The authorities seem to establish that to sustain an indictment for doing a prohibited act, it is sufficient to prove that the act was knowingly and intentionally done.

* * * * *

"In this case, if the defendants could have shown that they believed that in fact notice had been given to the inspector, although it had not, they would not have been guilty of the offense, because the intention to do the act would have been wanting. Their plea is: True, we intended to remove the inspector without notice, but we thought the law permitted it. This was a mistake of law, and is not strictly a defense.

* * * * *

"If the offense is merely technical, the punishment can be made correspondingly nominal; while a rule requiring proof of a criminal intent to violate the statute, independent of an intent to do the act which the statute declares shall constitute the offense, would, in many cases, prevent the restraining influence which the statute was designed to secure."

In the case of *Fiedler vs. Darrin* (50 N. Y., 437) the court says:

"But when an act is illegal, the intent of the offender is immaterial."

In the case of *The Commonwealth vs. Murphy* (165 Mass., 66) the court says:

"In general, it may be said that there must be *malus animus*, or a criminal intent. But there is a large class of cases in which, on grounds of public policy, certain acts are made punishable without proof that the defendant

understands the facts that give character to his act.

"In such cases it is deemed best to require everybody at his peril to ascertain whether his act comes within the legislative prohibition.

* * * * *

"Considering the nature of the offense, the purpose to be accomplished, the practical methods available for the enforcement of the law, and such other matters as throw light upon the meaning of the language, the question in interpreting a criminal statute is whether the intention of the legislature was to make knowledge of the facts an essential element of the offense, or to put upon everyone the burden of finding out whether his contemplated act is prohibited, and of refraining from it if it is."

In the case of *Halsted vs. The State* (41 N. J. L., 552; 32 Am. Rep., 247), the question of a criminal intent arose under a statute, under which the defendant was convicted of a crime, providing that if any township committee or other body shall disburse or vote for the disbursement of public moneys in excess of appropriations made for the purpose, the persons constituting such board shall be guilty of a crime. The defendant was one who violated this law by voting to incur obligations in excess of the appropriation. He was convicted and appealed and the opinion from which the quotation is taken was written upon a decision of that appeal. The court says:

"When the State had closed, the defense offered to show that the defendant, in aiding in the passage and effectuation of the resolution which I have pronounced to be illegal, did so under the advice of counsel and in good faith, and from pure and honest motives, and that he therein exercised due care and caution.

* * * * *

"As there is an undoubted competency in the lawmaker to declare an act criminal, irrespective of the knowledge or motive of the doer of such act, there can be, of necessity, no judicial authority having the power to require, in the enforcement of the law, such knowledge or motive to be shown. In such instances the entire function of the court is to find out the intention of the legislature, and to enforce the law in absolute conformity to such intention. And in looking over the decided cases on the subject it will be found that in the considered adjudications this inquiry has been the judicial guide."

In the case of *Rex vs. Ogden* (6 C. & P., 631; 25 E. C. L., 611), the prisoner was indicted for unlawfully transposing from one piece of wrought plate to another the lion-poisson contrary to the statutes. It was conceded that the act was done without any fraudulent intention. The court said:

"There are no words in the act of Parliament referring to any fraudulent intention. The words of it are, 'Shall transpose or remove, or cause or procure to be transposed or removed, from one piece of wrought plate to another.' "

In the case of *The State vs. McBrayer* (98 N. C., 623) the court stated:

"It is a mistaken notion that positive, wilful intent to violate the criminal law is an essential ingredient in every criminal offense, and that where there is an absence of such intent there is no offense; this is especially true also to statutory offenses. When the statute plainly forbids an act to be done, and it is done by some person, the law implies conclusively the guilty intent, although the offender was honestly mistaken as to the meaning of the law he violates. When the language is plain and positive, and the offense is not made to depend upon the positive, wilful intent and purpose, nothing is left to interpretation."

In the case of *the Commonwealth vs. Weiss* (139 Pa. St., 247), the question arose on an appeal by the defendant from a judgment requiring him to pay a penalty for a violation of the statute of the State which provided that any person would be liable to pay a penalty "who shall manufacture, sell, or offer or expose for sale, or have in his possession with intent to sell," oleomargarine, etc. At the trial the defendant requested the court to instruct the jury

that, if they believed, from the evidence, that the defendant did not knowingly furnish or authorize to be furnished, or knew of there being furnished, to any of his customers any oleomargarine, but, as far as he knew, furnished genuine butter, then the verdict must be for the defendant. The court refused to make the charge as requested and that is the only point upon which the defendant appealed.

The court says:

"The prohibition is absolute and general; it could not be expressed in terms more explicit and comprehensive. The statutory definition of the offense embraces no word implying that the forbidden act shall be done knowingly or willfully, and, if it did, the designed purpose of the act would be practically defeated. The intention of the legislature is plain, that persons engaged in the traffic so engage in it at their peril and that they can not set up their ignorance of the nature and qualities of the commodities they sell, as a defense."

The following authorities are to the same effect: *State vs. Gould* (40 Ia., 374); *Commonwealth vs. Farren* (9 Allen, 489); *Commonwealth vs. Nichols* (10 Allen, 199); *Commonwealth vs. Boynton* (2 Allen, 160); *Wharton's Criminal Law*, section 2442; *Commonwealth vs. Sellers* (130 Pa., 32); 3 *Greenleaf on Evidence*, section 21; *Farrell vs. The State* (32 Ohio State, 456); *Beekman vs. Anthony* (56 Miss., 446); *The People vs. Roby* (52 Mich., 577).

It is clear from the authorities cited that in the act under consideration the legislature did not intend that a criminal intent should be a necessary element of the crime. The statutory definition of the offense embraces no word implying that the prohibited act shall be done knowingly or willfully. The wording is plain. The Act means what it says. Nothing is left to interpretation.

Care must be exercised in distinguishing the difference between the intent to commit the crime and the intent to perpetrate the act. The accused did not consciously intend to commit a crime; but he did intend to commit an act, and that act is, by the very nature of things, the crime itself-intent and all. The wording of the law is such that the intent and the act are inseparable. The act is the crime. The accused intended to put the device in his window. Nothing more is required to commit the crime.

We do not believe that the second proposition of the accused, namely, that the law is applicable only to the identical banners, etc., actually used in the late insurrection, and not to duplicates of those banners, can be sustained.

It is impossible that the Commission should have intended to prohibit the display of the flag or flags actually used in the insurrection, and, at the same time, permit exact duplicates thereof (Saving, perhaps, size) to be displayed without hindrance. In the case before us, to say that the display of a certain banner is a crime and that the display of its exact duplicate is not is to say nonsense. The rules governing the interpretation of statutes are rules of construction, not destruction. To give the interpretation contended for by the appellant would, as to this particular provision, nullify the statute altogether.

The words "used during the late insurrection in the Philippine Islands to designate or identify those in armed rebellion against the United States" mean not only the identical flags actually used in the insurrection, but any flag which is of that type. This description refers not to a particular flag, but to a type of flag. That phrase was used because there was and is no other way of describing that type of flag. While different words might be employed, according to the taste of the draftsman, the method of description would have to be the same. There is no concrete word known by which that flag could be aptly or properly described. There was no opportunity, within the scope of a legislative enactment, to describe the physical details. It had no characteristics whatever, apart from its use in the insurrection, by which it could, in such enactment, be identified. The great and only characteristic which it had upon which the Commission could seize as a means of description and identification was the fact that it was used

in the insurrection. There was, therefore, absolutely no way in which the Commission could, in the Act, describe the flag except by reciting where and how it was used. It must not be forgotten that the Commission, by the words and phrases used, was not attempting to describe a particular flag, but a type of flag. They were not describing a flag used upon a particular field or in a certain battle, but a type of flag used by an army—a flag under which many persons rallied and which stirred their sentiments and feelings wherever seen or in whatever form it appeared. It is a mere incident of description that the flag was used upon a particular field or in a particular battle. They were describing the flag not a flag. It has a quality and significance and an entity apart from any place where or form in which it was used.

"Language is rarely so free from ambiguity as to be incapable of being used in more than one sense, and the literal interpretation of a statute may lead to an absurdity, or evidently fail to give the real intent of the legislature. When this is the case, resort is had to the principle that the spirit of a law controls the letter, so that a thing which is within the intention of a statute is as much within the statute as if it were within the letter, and a thing which is within the letter of the statute is not within the statute unless it be within the intention of the makers, and the statute should be so construed as to advance the remedy and suppress the mischief contemplated by the framers, (U. S. vs. Kirby, 7 Wall., 487; State vs. Bolden, 107 La., 116, 118; U. S. vs. Buchanan, 9 Fed. Rep., 689; Green vs. Kemp, 13 Mass., 515; Lake Shore R. R. Co. vs. Roach, 80 N. Y., 339; DeMeld vs. Brady, 108 N. Y., 524; Doyle vs. Doyle, 50 Ohio State, 330.)

"The intention of the legislature and the object aimed at, being the fundamental inquiry in judicial construction, are to control the literal interpretation of particular language in a statute, and language capable of more than one meaning is to be taken in that sense which will harmonize with such intention and object, and effect the purpose of the enactment." (26 Am. & Eng. Ency. of Law, 602.)

Literally hundreds of cases might be cited to sustain this proposition.

"The preamble is no part of the statute, but, as setting out the object and intention of the legislature, it is considered in the construction of an act. Therefore, whenever there is ambiguity, or wherever the words of the act have more than one meaning, and there is doubt as to the subject-matter to which they are to be applied, the preamble may be used." (U. S. vs. Union Pacific R. R. Co., 91 U. S., 72; Platt vs. Union Pacific R. R. Co., 99 U. S., 48; Myer vs. Western Car Co., 102 U. S., 1; Holy Trinity Church vs. U. S., 143 U. S., 457; Coosaw Mining Co. vs. South Carolina, 144 U. S., 550; Cohn vs. Barrett, 5 Cal., 195; Barnes vs. Jones, 51 Cal., 303; Field vs. Gooding, 106 Mass., 310; People vs. Molineaux, 40 N. Y., 113; Smith vs. The People, 47 N. Y., 330; The People vs. Davenport, 91 N. Y., 574; The People vs. O'Brien, 111 N. Y., 1.)

"The statute, then, being penal, must be construed with such strictness as to carefully safeguard the rights of the defendant and at the same time preserve the obvious intention of the legislature. If the language be plain, it will be construed as it reads, and the words of the statute given their full meaning; if ambiguous, the court will lean more strongly in favor of the defendant than it would if the statute were remedial. In both cases it will endeavor to effect substantial justice." (Bolles vs. Outing Co., 175 U. S., 262, 265; U. S. vs. Wiltberger, 5 Wheat., 76, 95; U. S. vs. Reese, 92 U. S., 214.)

"It is said that notwithstanding this rule (that penal statutes must be construed strictly) the intention of the lawmakers must govern in the construction of penal as well as other statutes. This is true, but this is not a new, independent rule which subverts the old. It is a modification of the known maxim and amounts to this—that though penal statutes are to be construed strictly, they are not to be construed so strictly as to defeat the obvious purpose of the legislature." (U. S. vs. Wiltberger, 5 Wheat., 76; Taylor vs. Goodwin. L. R. 4, Q. B. Div., 228.)

In the latter case it was held that under a statute which imposed a penalty for "furiously driving any sort of carriage" a person could be convicted for immoderately driving a bicycle.

"It is presumed that the legislature intends to impart to its enactments such a meaning as will render them operative and effective, and to prevent persons from eluding or defeating them. Accordingly, in case of any doubt or obscurity, the construction will be such as to carry out these objects." (Black, Interpretation of Laws, p. 106.)

In *The People vs. Supervisors* (43 N. Y., 130) the court said:

"The occasion of the enactment of a law may always be referred to in interpreting and giving effect to it. The court should place itself in the situation of the legislature and ascertain the necessity and probable object of the statute, and then give such construction to the language used as to carry the intention of the legislature into effect, so far as it can be ascertained from the terms of the statute itself." (U. S. vs. Union Pacific R. R. Co., 91 U. S., 72, 79.)

We do not believe that in construing the statute in question there is necessity requiring that clauses should be taken from the position given them and placed in other portions of the statute in order to give the whole Act a reasonable meaning. Leaving all of the clauses located as they now are in the statute, a reasonable interpretation, based upon the plain and ordinary meaning of the words used, requires that the Act should be held applicable to the case at bar.

The judgment of the court below and the sentence imposed thereunder are hereby affirmed. So ordered.

Arellano, C. J., Torres, and Carson, JJ., concur.

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.