

**MARY CONCEPCION BAUTISTA AND ENRIQUE D. BAUTISTA,
PETITIONERS, VS. ALFREDO L. JUINIO, ROMEO F. EDU AND FIDEL V.
RAMOS, RESPONDENTS.**

G.R. No. 50908. January 31, 1984

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

The validity of an energy conservation measure, Letter of Instruction No. 869, issued on May 31, 1979 - the response to the protracted oil crisis that dates back to 1974 - is put in issue in this prohibition proceeding filed by petitioners, spouses Mary Concepcion Bautista and Enrique D. Bautista, for being allegedly violative of the due process and equal protection guarantees^[1] of the Constitution. The use of private motor vehicles with H and EH plates on week-ends and holidays was banned from "[12:00] a.m. Saturday morning to 5:00 a.m. Monday morning, or 1:00 a.m. of the holiday to 5:00 a.m. of the day after the holiday."^[2] Motor vehicles of the following classifications are exempted: (a) S (Service); (b) T (Truck); (c) DPL (Diplomatic); (d) CC (Consular Corps); (e) TC (Tourist Cars)."^[3] Pursuant thereto, respondent Alfredo L. Juinio, then Minister of Public Works, Transportation and Communications and respondent Romeo P. Edu, then Commissioner of Land Transportation Commission issued on June 11, 1979, Memorandum Circular No. 39, which imposed "the penalties of fine, confiscation of vehicle and cancellation of registration on owners of the above-specified vehicles" found violating such Letter of Instruction.^[4] It was then alleged by petitioners that "while the purpose for the issuance of the LOI 869 is laudable, to wit, energy conservation, the provision banning the use of H and EH [vehicles] is unfair, discriminatory, [amounting to an] arbitrary classification" and thus in contravention of the equal protection clause.^[5] Moreover, for them, such Letter of Instruction is a denial of due process, more specifically, "of their right to use and enjoy their private property and of their freedom to travel and hold family gatherings, reunions and outings on week-ends and holidays," inviting attention to the fact that others not included in the ban enjoying "unrestricted freedom."^[6] It would follow, so they contend that Memorandum Circular No. 39 imposing penalties of fine, confiscation of the vehicle and cancellation of license is likewise unconstitutional, for being violative of the doctrine of "undue delegation of legislative power."^[7] It is to be noted that such Memorandum Circular does not impose the penalty of confiscation but merely that of impounding, fine, and for the third offense that of cancellation of certificate of registration and for the rest of the year or for ninety days whichever is longer.

This Court gave due course to the petition requiring respondent to answer. There was admission of the facts as substantially alleged except as previously noted, that the ban starts at 12:00 a.m. rather than 1:00 a.m. of a Saturday or of a holiday and as to the mention of a Willy's Kaiser jeep being registered in the name of a certain Teresita Urbina, about which respondents had no knowledge. There was a denial of the allegations that the classification of vehicles into heavy (H) and extra heavy (EH) on the other hand and light and bantam on the other hand was violative of equal protection and the regulation as to the use of the former cars on the dates specified a transgression of due process. The answer likewise denied that there was an undue delegation of legislative power, reference being made to the Land Transportation and Traffic Code.^[8] There was also a procedural

objection raised, namely, that what is sought amounts at most to an advisory opinion rather than an adjudication of a case or controversy.

Petitioners filed a motion to be allowed to reply to the answer. It was granted. The reply, considering its exhaustive character serving as its memorandum, stressed anew what it emphasized as the arbitrary, unreasonable, and oppressive aspects of the challenged Letter of Instruction and Memorandum Circular No. 39. It disputed what it characterized as an "erroneous and arbitrary presumption that heavy car owners unnecessarily use and therefore waste gasoline whenever they drive their cars on week-ends and holidays;"[9] it stigmatized the ban as defeating its "avowed purpose in the case of the affluent who own not only heavy limousines but also many small cars [as] they may be compelled to use at least two small cars;"[10] referred to the high cost of taxis or other public transports for those "not able to afford expensive small cars [possibly] only one heavy and possible old model;"[11] cited the case of "many eight cylinder vehicles which because of their weight have been registered as light but in fact consume more or as much gasoline as the banned vehicles." [12] Their conclusion is that "the ban imposed, in result and effect is class legislation." [13]

The parties were required to submit memoranda. Respondents did so but not petitioners. They relied on their reply to the answer - as noted, a rather comprehensive pleading. For reasons to be set forth, this Court holds that the petition cannot prosper.

1. First as to the procedural objection. In the memorandum for respondents, one of the issues raised was whether "the power of judicial review may be invoked considering the inadequacy of the record and the highly abstract and academic questions raised by the petitioners." [14] It is inaccurate to say that the record is inadequate. It does not admit of doubt that the ban applies to petitioners who are "the registered owners of an eight cylinder 1969 Buick, and the vendees of a six cylinder Willy's kaiser jeep, which are both classified as heavy or H." [15] To that extent, therefore, the enforcement of the assailed Letter of Instruction will amount to a deprivation of what otherwise would be a valid exercise of a property right. Thus they fall squarely within "the unchallenged rule" as to who may raise a constitutional question, namely, to quote the language of Justice Laurel in the leading case of *People v. Vera*, [16] "that the person who impugns the validity of a statute must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement." [17] Moreover, that rule has been considerably relaxed. [18] The question then is neither abstract nor academic as contended by respondents.

2. There is, however, this formidable obstacle that confronts petitioners. What they seek is for this Court to hold that a Letter of Instruction, a regulatory measure precisely enacted to cope with the serious and grave problem of energy conservation, is void on its face. Such a task is rendered unusually difficult by what has been referred to by Justice Laurel in the leading case of *Angara v. Electoral Commission* [19] as the "presumption of constitutionality" and by the same jurist in the case of *People v. Vera* [20] in slightly different words "a presumption that such an act falls within constitutional limitations." There is need then for a factual foundation of invalidity. In the language of *Ermita-Malate Hotel & Motel Operations Association, Inc. v. City Mayor of Manila*: "It admits of no doubt therefore that there being a presumption of validity, the necessity for evidence to rebut it is unavoidable, unless the statute or ordinance is void on its face, which is not the case here. The principle has been nowhere better expressed than in the leading case of *O'Gorman & Young v. Hartford Fire Insurance Co.*, where the American Supreme Court through Justice Brandeis tersely and succinctly summed up the matter thus: The statute here questioned deals with a subject clearly within the scope of the police power. We are asked to declare it void on the ground that the specific method of regulation prescribed is unreasonable and hence deprives the plaintiff of due process of law. As underlying questions of fact may condition the constitutionality of legislation must prevail in the absence of some factual foundation of record for overthrowing the statute." [21]

3. It is true, of course, that there may be instances where a police power measure may, because of its arbitrary,

oppressive or unjust character, be held offensive to the due process clause and, therefore, may, when challenged in an appropriate legal proceeding, be declared void on its face. This is not one of them. A recital of the whereas clauses of the Letter of Instruction makes it clear. Thus: "[Whereas], developments in the international petroleum supply situation continue to follow a trend of limited production and spiralling prices thereby precluding the possibility of immediate relief in supplies within the foreseeable future; [Whereas], the uncertainty of fuel supply availability underscores a compelling need for the adoption of positive measures designed to insure the viability of the country's economy and sustain its developmental growth; [Whereas], to cushion the effect of increasing oil prices and avoid fuel supply disruptions, it is imperative to adopt a program directed towards the judicious use of our energy resources complemented with intensified conservation efforts and efficient utilization thereof; * * *." [22] What is undeniable is that the action taken is an appropriate response to a problem that presses urgently for solution. It may not be the only alternative, but its reasonableness is immediately apparent. Thus, to repeat, substantive due process, which is the epitome of reasonableness and fair play, is not ignored, much less infringed.

4. In the interplay between such a fundamental right and police power, especially so where the assailed governmental action deals with the use of one's property, the latter is accorded much leeway. That is settled law. What is more, it is good law. Due process, therefore, cannot be validly invoked. As stressed in the cited *Ermita-Malate Hotel* decision: "To hold otherwise would be to unduly restrict and narrow the scope of police power which has been properly characterized as the most essential, insistent and the least limitable of powers, extending as it does 'to all the great public needs.' It would be, to paraphrase another leading decision, to destroy the very purpose of the state if it could be deprived or allowed itself to be deprived of its competence to promote public health, public morals, public safety and the general welfare. Negatively put, police power is 'that inherent and plenary power in the State which enables it to prohibit all that is hurtful to the comfort, safety, and welfare of society.'" [23]

5. The due process question having been disposed of, there is still the objection based on the equal protection clause to be considered. A governmental act may not be offensive to the due process clause, but may run counter to such a guarantee. Such is the case when there is no rational basis for the classification followed. That is the point raised by petitioners. For them, there is no rational justification for the ban being imposed on vehicles classified as heavy (H) and extra-heavy (EH), for precisely those owned by them fall within such category. Tested by the applicable standard that must be satisfied to avoid the charge of a denial of equal protection, the objection of petitioners is shown to be lacking in merit. Such a classification on its face cannot be characterized as an affront to reason. A legal norm, according to *J.M. Tuason & Co., Inc. vs. Land Tenure Administration*, [24] "whether embodied in a rule, principle, or standard, constitutes a defense against anarchy at one extreme and tyranny at the other. Thereby, people living together in a community with its myriad and complex problems can minimize the friction and reduce the conflicts, to assure, at the very least, a peaceful ordering of existence. The ideal situation is for the law's benefits to be available to all, that none be placed outside the sphere of its coverage. Only thus could chance and favor be excluded and the affairs of men governed by that serene and impartial uniformity, which is of the very essence of the idea of law. The actual, given things as they are and likely to continue to be, cannot approximate the ideal. Nor is the law susceptible to the reproach that it does not take into account the realities of the situation. * * * To assure that the general welfare be promoted, which is the end of law, a regulatory measure may cut into the rights to liberty and property. Those adversely affected may under such circumstances invoke the equal protection clause only if they can show that the governmental act assailed, far from being inspired by the attainment of the common weal was prompted by the spirit of hostility, or at the very least, discrimination, that finds no support in reason. It suffices then that the laws operate equally and uniformly on all persons under similar circumstances or that all persons must be treated in the same manner, the conditions not being different, both in the privileges conferred and the liabilities imposed. Favoritism and undue preference cannot be allowed. For the principle is that equal protection and security shall be given to every person under circumstances, which if not identical are analogous. If law be looked upon in terms of burden or charges, those that fall within a class should be treated in the same fashion, whatever restrictions cast on some in the group equally binding on the rest." [25]

6. Nor does it militate against the validity of the Letter of Instruction just because the ban imposed does not go as far as it could have and therefore could be less efficacious in character. That was the solution which, for the President expressing a power validly lodged in him, recommended itself. There was a situation that called for a corrective measure. He decided that what was issued by him would do just that or, at the very least, help in easing the situation. That it did not cover other matters which could very well have been regulated does not call for a declaration of nullity. The President, to paraphrase *Lutz v. Araneta*,^[26] "is not required by the Constitution to adhere to the policy of all or none."^[27] It is quite obvious then that no equal protection question arises.

7. It may not be amiss to refer to a 1981 American Supreme Court decision, *Minnesota v. Clover Leaf Creamery Company*.^[28] Respondent along with several other business corporations adversely affected involved in the manufacture and utilization of plastic milk containers filed suit in a Minnesota district court seeking to enjoin enforcement of a Minnesota statute banning the retail sale of milk in plastic nonreturnable, nonrefillable containers, but permitting such sale in other nonreturnable, nonrefillable containers, such as paperboard, milk cartons. After conducting extensive evidentiary hearings, the Minnesota court enjoined enforcement of the statute, finding that it violated among others the equal protection clause of the Fourteenth Amendment to the Federal Constitution. The Minnesota Supreme Court affirmed. On certiorari, the United States Supreme Court reversed, with only Justice Stevens dissenting. The opinion by Justice Brennan noted that "proponents of the legislation argued that it would promote resource conservation, ease solid waste disposal problems, and conserve energy."^[29] That sufficed for the Court to conclude "that the ban on plastic nonreturnable milk containers bears a rational relation to the State's objectives, and must be sustained under the Equal Protection Clause."^[30] It does show that notwithstanding the "new equal protection approach" with its emphasis on "suspect classification" and "fundamental rights and interests standard," a concept so ably expounded by Professor Gunther, the "rational relation test"^[31] still retains its validity. Not that there could be any objection to the classification here followed as being in any way susceptible to such a pejorative expression as "suspect" or that the assailed Letter of Instruction does not qualify under "the fundamental rights and interests" standard.

8. There was set forth in the petition what were referred to as "other reasonable measures which the authorities concerned with energy conservation can take immediately, which are in fact acceptable and obviously called for and should have been done long ago, to wit: 1. require and establish taxi stands equipped with efficient telephone and communication systems; 2. strict implementation and observance of cargo truck hours on main arteries; 3. strict observance of traffic rules; 4. effective solution of traffic problems and decongestion of traffic through rerouting and quick repair of roads, and efficient operation of double decker buses; 5. rationing of gasoline to avoid panic buying and give the private car owner the option and responsibility of deciding on the use of his allocation; 6. allow neon and electrically devised advertising signs only from five o'clock p.m. to nine o'clock p.m.; 7. prohibit immediately the importation of heavy and luxury cars and seriously re-examine the car manufacturing program."^[32] Admittedly, such measures are conducive to energy conservation. The question before us however is limited to whether or not Letter of Instruction 869 as implemented by Memorandum Circular No. 39 is violative of certain constitutional rights. It goes no further than that. The determination of the mode and manner through which the objective of minimizing the consumption of oil products may be attained is left to the discretion of the political branches.^[33] Absent therefore the alleged infringement of constitutional rights, more precisely the due process and equal protection guarantees, this Court cannot adjudge Letter of Instruction No. 869 as tainted by unconstitutionality.

9. It was likewise contended that Memorandum Circular No. 39, issued by the then respondent Minister of Public Works, Transportation and Communications, and then respondent Land Transportation Commissioner, imposing the penalties "of fine, confiscation of vehicle and cancellation of license is likewise unconstitutional," petitioners invoking the principle of non-delegation of legislative power.^[34] To that extent that a Letter of Instruction may be viewed as an exercise of the decree-making power of the President, then such an argument is futile. If, however, viewed as a compliance with the duty to take care that the laws be

faithfully executed, as a consequence of which subordinate executive officials may in turn issue implementing rules and regulations, then the objection would properly be considered as an ultra vires allegation. There is this relevant excerpt from *Teoxon v. Member of the Board of Administrators*:^[35] "1. The recognition of the power of administrative officials to promulgate rules in the implementation of the statute, necessarily limited to what is provided for in the legislative enactment, may be found in the early case of *United States v. Barrias* decided in 1908. Then came, in a 1914 decision, *United States v. Tupasi Molina*, a delineation of the scope of such competence. Thus: 'Of course the regulations adopted under legis-lative authority by a particular department must be in harmony with the provisions of the law, and for the sole purpose of carrying into effect its general provisions. By such regulations, of course, the law itself can not be extended. So long, however, as the regulations relate solely to carrying into effect the provisions of the law, they are valid.' In 1936, in *People v. Santos*, this Court expressed its disapproval of an administrative order that would amount to an excess of the regulatory power vested in an administrative official. We reaffirmed such a doctrine in a 1951 decision, where we again made clear that where an administrative order betrays inconsistency or repugnancy to the provisions of the Act, 'the mandate of the Act must prevail and must be followed.' Justice Barrera, speaking for the Court in *Victorias Milling Company, Inc. v. Social Security Commission*, citing *Parker* as well as *Davis* did tersely sum up the matter thus: 'A rule is binding on the courts so long as the procedure fixed for its promulgation is followed and its scope is within the statutory granted by the legislature, even if the courts are not in agreement with the policy stated therein or its innate wisdom * * *. On the other hand, administrative interpretation of the law is at best merely advisory, for it is the courts that finally determine what the law means.' It cannot be otherwise as the Constitution limits the authority of the President, in whom all executive power resides, to take care that the laws be faithfully executed. No lesser administrative executive office or agency then can, contrary to the express language of the Constitution, assert for itself a more extensive prerogative."^[36] It was alleged in the Answer of Solicitor General Estelito P. Mendoza that Letter of Instruction 869 and Memorandum Circular No. 39 were adopted pursuant to the Land Transportation and Traffic Code.^[37] It contains a specific provision as to penalties.^[38] Thus: "For violation of any provisions of this Act or regulations promulgated pursuant hereto, not hereinbefore specifically punished, a fine of not less than ten nor more than fifty pesos shall be imposed."^[39] Memorandum Circular No. 39 cannot be held to be ultra vires as long as the fine imposed is not less than ten nor more than fifty pesos. As to suspension of registration,^[40] of the Code, insofar as applicable, provides: "Whenever it shall appear from the records of the Commission that during any twelve-month period more than three warnings for violations of this Act have been given to the owner of a motor vehicle, or that the said owner has been convicted by a competent court more than once for violation of such laws, the Commissioner may, in, his discretion, suspend the certificate of registration for a period not exceeding ninety days and, thereupon, shall require the immediate surrender of the number plates * * *."^[41] It follows that while the imposition of a fine or the suspension of registration under the conditions therein set forth is valid under the Land Transportation and Traffic Code, the impounding of a vehicle finds no statutory justification. To apply that portion of Memorandum Circular No. 39 would be ultra vires. It must likewise be made clear that a penalty even if warranted can only be imposed in accordance with the procedure required by law.^[42]

WHEREFORE, the petition is dismissed.

Aquino, Guerrero, De Castro, Melencio-Herrera, Escolin, Relova, and Gutierrez, Jr., JJ., concur.

Teehankee and Plana, JJ., concur with the dissenting opinion of J. Abad Santos.

Makasiar and Concepcion, Jr., JJ., took no part.

Abad Santos, J., see dissenting opinion on the penalties.

[1] According to Article IV, Section 1 of the Constitution: "No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws."

- [2] Petition, par. 3 and Annex C. The petition stated that the time was 1:00 a.m. Saturday morning. The Answer pointed out that the ban starts at 12:00 a.m.
- [3] Annex C to Petition.
- [4] Ibid, par. 4.
- [5] Ibid, par. 5.
- [6] bid, par. 6.
- [7] Ibid, par. 7.
- [8] Republic Act No. 4136 (1964), Secs. 56(1) and 16, in relation to Sec. 4(d) (1).
- [9] Reply to Answer, 2.
- [10] Ibid.
- [11] Ibid.
- [12] Ibid, 3.
- [13] Ibid.
- [14] Memorandum for the Respondents, 1.
- [15] Petition, par. 2.
- [16] 65 Phil. 56 (1937).
- [17] Ibid, 89.
- [18] Cf. Pascual v. The Secretary of Public Works, 110 Phil. 331 (1960); Philippine Constitution Association, Inc. v. Gimenez, L-23326, Dec. 18, 1965, 15 SCRA 479 and Philippine Constitution Association, Inc. v. Mathay, L-25554, Oct. 4, 1966, 18 SCRA 300.
- [19] 63 Phil. 139, 158.
- [20] 65 Phil. 56, 95.
- [21] 127 Phil. 306, 315. The O’Gorman & Young decision is reported in 282 U.S. 328 (1931).
- [22] Annex "C".
- [23] 127 Phil. 309, 316. The cases relied upon are Noble State Bank v. Haskell, 219 U.S. 104, 111 (1911), U.S. v. Gomez-Jesus, 31 Phil. 218, 225 (1915); Rubi v. Provincial Board, 39 Phil. 660, 708 (1919).
- [24] L-21064, February 18, 1970, 31 SCRA 413, 434-435.
- [25] Ibid, at 434-435.
- [26] 98 Phil. 148 (1955).
- [27] Ibid, 153.

[28] 449 US 456 (1981).

[29] Ibid, 449.

[30] Ibid

[31] Gunther, Constitutional Law, 10th ed., 705-971 (1980).

[32] Petition, par. 14.

[33] Cf. Lorenzo v. Director of Health, 50 Phil. 595.

[34] Petition, pars. 4 and 7.

[35] L-25619, June 30, 1970, 30 SCRA 585.

[36] Ibid, 588-589. The opinion cited United States v. Barrias, reported in 11 Phil. 327 (1908); United States v. Tupasi Molina, 29 Phil. 119 (1914.); People v. Santos, 63 Phil. 300 (1936); Chinese Flour Importers Association v. Price Stabilization Board, 89 Phil. 439, Victorias Milling Co. v. Social Security Commission, 114 Phil. 555 (1962). Cf. People v. Maceren, L-32166, October 18, 1977, 79 SCRA 450 (per Aquino, J.).

[37] Answer, par. 21. The Land Transportation and Traffic Code is Republic Act No. 4136 (1964).

[38] Section 56.

[39] Ibid, par. (1).

[40] Section 16.

[41] Ibid, second paragraph.

[42] Cf. People v. Exconde, 101 Phil. 1175 (1957).

DISSENTING OPINION**ABAD SANTOS, J:**

The power of the State to restrict the use of certain motor vehicles during stated days and hours as a fuel-saving measure is to me indubitable. It is anchored on the police power of the State. For this reason LOI No. 869 cannot be assailed successfully as violative of due process and equal protection guarantees of the Constitution.

There is also no question as to the power of the Commissioner of Land Transportation and the Minister of Public Works, Transportation and Communication to issue Memorandum Circular No. 39 on June 11, 1979. The circular was necessary to implement the LOI. But it does not follow that the circular is completely immune from the taint of infirmity.

I refer to paragraph 4 of the circular which provides, inter alia, for penalties consisting of fine and suspension or cancellation of the certificate of registration for owners of motor vehicles violating the LOI. This portion of the circular is clearly illegal for the LOI is absolutely and completely devoid of legal sanctions and consequently the implementing circular cannot prescribe them. It is elementary that only the legislature (or the President in the exercise of his legislative power) can prescribe penalties. Executive officials whose task is to enforce the law can prescribe penalties only if they are authorized to do so within specified limits by the legislature.

It is contended by the respondents that the LOI and the implementing circular were adopted pursuant to the Land

Transportation and Traffic Code - Republic Act No. 4136. This contention is utterly baseless.

LOI No. 869 can be compared to a multiple independently targeted ballistic missile. It tasks various agencies of the government as follows:

1. The Ministry of Energy shall, during the period of tight supply, limit, as necessary, sales of fuel products by oil companies and other outlets to all consumers including the government and the Armed Forces of the Philippines. Initially sales shall be limited to 1978 levels. This may be adjusted upward or downward as required to balance supply with demand and to equitably distribute available supplies. Moreover, the Ministry of Energy is hereby authorized to set supply priorities and to establish supply allocations accordingly.
2. The Ministry of Local Government and Community Development in cooperation with the Ministry of Energy shall formulate energy conservation plans and implement the same through the Barangay brigades; moreover, it shall assist in the implementation of other conservation measures to be instituted by other government agencies.
3. The Metro Manila commission, in coordination with the appropriate government agencies, shall develop, implement and supervise a program for the implementation of the Executive Order on the staggering of office hours of both government and private sectors to achieve optimum use of transportation facilities, as well as to improve traffic flow.
4. All Ministries, agencies and corporations of the government shall discontinue the use of airconditioning facilities in offices where adequate ventilation is available. Any use of airconditioning facilities by government offices shall be only with prior approval of the respective ministers and, where allowed, temperature shall be kept at a minimum of 78°F.
5. The Ministry of Public Works, Transportation and Communications shall prohibit the use of private motor vehicles under the "H" and "EH" classifications of the LTC on weekends and holidays starting 0001 hours, Saturday morning, (or the day of the holiday) until 0500 hours, Monday morning (or the day after the holiday).

Exempted from this prohibition are motor vehicles of the following classifications:

- (a) S (Service)
- (b) T (Truck)
- (c) DPL (Diplomatic)
- (d) CC (Consular Corps)
- (e) TC (Tourist Cars)

6. The Metro Manila Traffic Management Authority shall, in coordination with the appropriate ministries, institute traffic flow improvement measures to ensure better traffic flow. These agencies, moreover, shall review the traffic citation system in order to simplify the application of sanctions for traffic violations.
7. The Ministry of Public Works, Transportation and Communication shall review the registration requirements of vehicles with a view to weeding out inefficient motor vehicles.
8. The Ministry of National Defense shall prohibit sports activities involving mainly the use of motor vehicles, watercraft and aircraft, including but not limited to car and motorcycle rallies, racing and similar events.
9. All government Ministries, agencies and corporations shall limit the use of government vehicles to essential activities and shall review travel program and schedules to minimize unnecessary trips.
10. The Metro Manila Commission, in coordination with the appropriate agencies, shall study the feasibility of

designating pedestrian malls and bicycle lanes.

11. The Ministry of National Defense shall intensify the drive against hoarding or black-marketing of fuel, especially of kerosene and diesel and other petroleum which from time to time may be short of supply.

12. The Ministry of Energy shall monitor and report on the implementation of the foregoing measures."

How can it be claimed with a straight face that the LOI was adopted pursuant to R. A. No. 4136 when nowhere in the LOI is the law mentioned, aside from the fact that the Ministry of Public Works, Transportation and Communication which is entrusted with the enforcement of R.A. No. 4136 is only one of the many agencies involved in conserving energy resources? It is obvious for any one willing to see that R. A. No. 4136 has no relevance to the LOI. Such being the case, the circular which is merely an accessory to the LOI cannot also be related to R.A. No. 4136.

LOI No. 869 is constitutional but its application pursuant to Memorandum Circular No. 39 is not. For this reason, I vote to grant the petition.

I close this dissent with the following observation: the prohibition against the use of certain vehicles during certain times has not been uniformly and consistently enforced. We are a nation surrounded by rules but many of which are not enforced or enforced indifferently. This situation breeds contempt instead of respect for the law. A few rules that are consistently enforced are better than many which are violated with impunity.

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