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SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, Aquino, and *Santos, JJ.*, concur.

Abad Santos, J., took no part.

EN BANC

[G.R. No. L-49112. February 2, 1979]

LEOVILLO C. AGUSTIN, *petitioner, vs.* **HON. ROMEO F. EDU, in his capacity as Land Transportation Commissioner; HON. JUAN PONCE ENRILE, in his capacity as Minister of National Defense; HON. ALFREDO L. JUINIO, in his capacity as Minister of Public Works, Transportation and Communications; and HON. BALTAZAR AQUINO, in his capacity as Minister of Public Highways,** *respondents.*

SYLLABUS

1. POLITICAL STATE; INHERENT POWERS; POLICE POWER; SCOPE. — The broad and expansive scope of the police power, which was originally identified by Chief Justice Taney of the American Supreme Court in an 1847 decision, as "nothing more or less than the powers of government inherent in every sovereignty" was stressed in the case of *Edu v. Ericta*, (L-32096, Oct. 24, 1970), thus: "Justice Laurel, in the first leading decision after the Constitution came into force, *Calalang v. Williams*, (70 Phil. 720) [1940] identified police power with the state authority to enact legislation that may interfere with personal liberty or property in order to promote the general welfare. Persons and property could thus 'be subjected to all kinds of restraints and burdens in order to secure the general

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comfort, health and prosperity of the state.' Shortly after independence in 1948, *Primicias v. Fugoso* (80 Phil. 71) reiterated the doctrine, such a competence being referred to as 'the power to prescribe regulations to promote the health, morals, peace, education, good order or safety, and general welfare of the people.' The concept was set forth in negative terms by Justice Malcolm in a pre-Commonwealth decision as 'that inherent and plenary power in the State which enables it to prohibit all things hurtful to the comfort, safety and welfare of society.' In the sense it could be hardly distinguishable as noted in *Morfe v. Mutuc* (L-20387 Jan. 31, 1969) with the totality of legislative power. It is in the above sense the greatest and most powerful attribute of government. It is, to quote Justice Malcolm, 'that most essential, insistent, and at least illimitable powers,' extending as Justice Holmes aptly pointed out 'to all the great public needs.' Its scope, over-expanding to meet the exigencies of the times, even to anticipate the future where it could be done, provides enough room for an efficient and flexible response to conditions and circumstances thus assuring the greatest benefits. In the language of Justice Cardozo: 'Needs that were narrow or parochial in the past may be interwoven in the present with the well-being of the nation. What is critical or urgent changes with the time.' The police power is thus a dynamic agency, suitably vague and far from precisely defined, rooted in the conception that men in organizing the state and imposing upon its government limitations to safeguard constitutional rights did not intend thereby to enable an individual citizen or a group of citizens to obstruct unreasonably the enactments of such salutary measures calculated to insure communal peace, safety, good order, and welfare.'"

2. **ID.; ID.; ID.; LETTER OF INSTRUCTION NO. 229; INTENDED TO PROMOTE PUBLIC SAFETY.** — Letter of Instruction 229 is a police measure clearly intended to promote public safety. It would be rare occurrence for the Court to invalidate a legislative or executive act of that character. The latest decision in point, *Edu v. Ericta*, sustained the validity of the Reflector Law, R.A. No. 5715 (1969), an enactment conceived with the same end in view. *Calalang v. Williams* found nothing objectionable in a statute, the purpose of which was: "To promote safe transit upon, and avoid obstruction on roads and streets designated as national roads . . . ."

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3. ID.; ID.; ID.; ID.; ISSUED AFTER CAREFUL STUDY BY THE EXECUTIVE DEPARTMENT. — The issuance of Letter of Instruction No. 229 is encased in the armor of prior, careful study by the Executive Department. The President had in his possession the necessary statistical information and data at the time he issued said letter of instruction and such factual foundation cannot be defeated by petitioner's naked assertion, not backed up by demonstrable data on record, that early warning devices are not too vital to the prevention of nighttime vehicular accidents. To set it aside for alleged repugnancy to the due process clause is to give sanction to conjectural claims that exceeded even the broadest permissible limits of a pleader's well-known penchant for exaggeration.

4. ID.; ID.; ID.; ID.; EARLY WARNING DEVICE REQUIREMENT, NOT OPPRESSIVE AND CONFISCATORY. — There is nothing in the questioned Letter of Instruction No. 229, as amended, or in the implementing rules and regulations in Administrative Order No. 1 issued by the Land Transportation Commission, which requires or compels motor vehicle owners to purchase the early warning device prescribed thereby. All that is required is for motor vehicle owners concerned to equip their motor vehicles with a pair of this early warning device in question, procuring or obtaining the same from whatever source. With a little of industry and practical ingenuity, motor vehicle owners can even personally make or produce this early warning device so long as the same substantially conforms with the specifications laid down in said letter of instruction and administrative order. Accordingly, the early warning device requirement can neither be oppressive, onerous, immoral, nor confiscatory, much less does it make manufacturers and dealers of said devices instant millionaries at the expense of car owners' as petitioner so sweepingly concludes.

5. ID.; ID.; ID.; ID.; ATTACK ON THE WISDOM THEREOF CANNOT BE SUSTAINED. — The attack on the validity of the challenged provision insofar as there may be objections, even if valid and cogent, on its wisdom cannot be sustained. That approach is distinguished by its unorthodoxy. It bears repeating "that this Court, in the language of Justice Laurel, 'does not pass upon questions of wisdom, justice or expediency of legislation.' As expressed by Justice Tuason: 'It is not the

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province of the courts to supervise legislation and keep it within the bounds of propriety and common sense. That is primarily and exclusively a legislative concern.' There can be no possible objection then to the observation of Justice Montemayor: 'As long as laws do not violate any constitutional provision, the Courts merely interpret and apply them regardless of whether or not they are wise or salutary.' For they, according to Justice Labrador, 'are not supposed to override legitimate policy and . . . never inquire into the wisdom of the law.' It is thus settled, to paraphrase Chief Justice Concepcion in *Gonzales v. Commission on Elections*, that only congressional power or competence, not the wisdom of the action taken, may be the basis for declaring a statute invalid. This is as it ought to be. The principle of separation of powers has in the main wisely allocated the respective authority of each department and confined its jurisdiction to such a sphere. There would then be intrusion not allowable under the Constitution if on a matter left to the discretion of a coordinate branch, the judiciary would substitute its own. If there be adherence to the rule of law, as there ought to be, the last offender should be courts of justice, to which rightly litigants submit their controversy precisely to maintain unimpaired the supremacy of legal norms and prescriptions. . . ."

6. **ID.; ID.; ID.; ID.; ID.; NO INFRINGEMENT OF THE PRINCIPLE OF NON-DELEGATION OF LEGISLATIVE POWER.** — The alleged infringement of the principle of non-delegation of legislative power is without any support in well-settled legal doctrines. An excerpt from the aforecited decision of *Edu v. Ericta* sheds light on the matter: "To avoid the taint of unlawful delegation, there must be a standard, which implies at the very least that the legislature itself determines matters of principle and lays down fundamental policy. Otherwise, the charge of complete abdication may be hard to repel. A standard thus defines legislative policy, marks its limits, maps out its boundaries and specifies the public agency to apply it. It indicates the circumstances under which the legislative command is to be effected. It is the criterion by which legislative purpose may be carried out. Thereafter, the executive or administrative office designated may in pursuance of the above guidelines promulgate supplemental rules and regulations. The standard may be either express or implied. If the former, the non-

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delegation is easily met. The standard though does not have to be spelled out specifically. It could be implied from the policy and purpose of the act considered as a whole. . . ."

7. **ID.; ID.; ID.; ID.; STATE RECOGNITION OF INTERNATIONAL AGREEMENTS.** — Where the two whereas clauses of the assailed Letter of Instruction read: "(Whereas), the hazards posed by such obstructions to traffic have been recognized by international bodies concerned with traffic safety, the 1968 Vienna Convention on Road Signs and Signals and the United Nations Organization (U.N.); (Whereas), the said Vienna Convention, which was ratified by the Philippine Government under P.D. No. 207, recommended the enactment of local legislation for the installation of road safety signs and devices; . . .," it cannot be disputed then that this Declaration of Principle found in the Constitution possesses relevance: "The Philippines . . . adopts the generally accepted principles of international law as part of the law of the land, . . ." The 1968 Vienna Convention on Road Signs and Signals is impressed with such a character. It is not for this country to repudiate a commitment to which it had pledged its word. The concept of *Pacta sunt servanda* stands in the way of such an attitude, which is, moreover, at war with the principle of international morality.

Teehankee, *J.*, *dissenting*:

1. **STATUTES; LETTER OF INSTRUCTION NO. 229; EARLY WARNING DEVICE REQUIREMENT; OPPRESSIVE, ARBITRARY AND DISCRIMINATORY.** — It is oppressive, arbitrary and discriminatory to require owners of motor vehicles with built-in and more effective and efficient early warning devices (E.W.D.'s) such as "(a) blinking lights in the fore and aft of said motor vehicles, (b) battery-powered blinking lights inside motor vehicles, (c) built-in reflectorized tapes on front and rear bumpers of motor vehicles . . . ." to purchase the E.W.D. specified in the challenged order, whose effectivity and utility have yet to be demonstrated.

2. **ID.; ID.; ID.; NO PUBLIC NECESSITY THEREFOR.** — The public necessity for the challenged order has yet to be shown. No valid refutation has been made of petitioner's assertion that the "E.W.D.'s" are not too vital to the prevention of nighttime

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vehicular accidents. Statistics show that the 26,000 motor vehicle accidents that occurred in 1976, only 390 or 1.5 percent involved rear-end collisions, "as to require the purchase and installation of the questioned E.W.D. for almost 900,000 vehicles throughout the country. There is no imperative need for imposing such a blanket requirement on all vehicles. The respondents have not shown that they have availed of the powers and prerogatives vested in their offices such as ridding the country of dilapitated trucks and vehicles which are the main cause of the deplorable highway accidents due to stalled vehicles, establishing an honest and fool-proof system of examination and licensing of motor vehicle drivers so as to ban the reckless and irresponsible and a sustained education campaign to install safe driving habits and attitudes that can be carried out for much less than the ₱50 million burden that would be imposed by the challenged order.

APPEARANCES OF COUNSEL

Leovillo C. Agustin Law Office for petitioner.

Solicitor General Estelito P. Mendoza, Assistant Solicitor General Ruben E. Agpalo and Solicitor Amado D. Aquino for respondents.

D E C I S I O N

FERNANDO, *J.*:

The validity of a Letter of Instruction[1] providing for an early warning device for motor vehicles is assailed in this prohibition proceeding as being violative of the constitutional guarantee of due process and, insofar as the rules and regulations for its implementation are concerned, for transgressing the fundamental principle of non-delegation of legislative power. The Letter of Instruction is stigmatized by petitioner, who is possessed of the requisite standing, as being arbitrary and oppressive. A temporary restraining order as issued and respondents Romeo

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[1] Letter of Instruction No. 229 (1974) as amended by Letter of Instruction No. 479 (1976)

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F. Edu, Land Transportation Commissioner; Juan Ponce Enrile, Minister of National Defense; Alfredo L. Juinio, Minister of Public Works, Transportation and Communications; and Baltazar Aquino, Minister of Public Highways; were required to answer. That they did in a pleading submitted by Solicitor General Estelito P. Mendoza.[2] Impressed with a highly persuasive quality, it makes quite clear that the imputation of a constitutional infirmity is devoid of justification. The challenged Letter of Instruction is a valid police power measure. Nor could the implementing rules and regulations issued by respondent Edu be considered as amounting to an exercise of legislative power. Accordingly, the petition must be dismissed.

The facts are undisputed. The assailed Letter of Instruction No. 229 of President Marcos, issued on December 2, 1974, reads in full: "[Whereas], statistics show that one of the major causes of fatal or serious accidents in land transportation is the presence of disabled, stalled, or parked motor vehicles along streets or highways without any appropriate early warning device to signal approaching motorists of their presence; [Whereas], the hazards posed by such obstructions to traffic have been recognized by international bodies concerned with traffic safety, the 1968 Vienna Convention on Road Signs and Signals and the United Nations Organization (U.N.); [Whereas], the said Vienna Convention which was ratified by the Philippine Government under P.D. No. 207, recommended the enactment of local legislation for the installation of road safety signs and devices; [Now, therefore, I, Ferdinand E. Marcos], President of the Philippines, in the interest of safety on all streets and highways, including expressways or limited access roads, do hereby direct: 1. That all owners, users or drivers of motor vehicles shall have at all times in their motor vehicles at least one (1) pair of early warning device consisting of triangular, collapsible reflectorized plates in red and yellow colors at least 15 cms. at the base and 40 cms. at the sides. 2. Whenever any motor vehicle is stalled or disabled or is parked for thirty (30)

[2] He was assisted by Assistant Solicitor General Ruben E. Agpalo and Solicitor Amado D. Aquino.

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minutes or more on any street or highway, including expressways or limited access roads, the owner, user or driver thereof shall cause the warning device mentioned herein to be installed at least four meters away to the front and rear of the motor vehicle stalled, disabled or parked. 3. The Land Transportation Commissioner shall cause Reflectorized Triangular Early Warning Devices, as herein described, to be prepared and issued to registered owners of motor vehicles, except motorcycles and trailers, charging for each piece not more than 15% of the acquisition cost. He shall also promulgate such rules and regulations as are appropriate to effectively implement this order. 4. All hereby concerned shall closely coordinate and take such measures as are necessary or appropriate to carry into effect these instructions."[3] Thereafter, on November 15, 1976, it was amended by Letter of Instruction No. 479 in this wise: "Paragraph 3 of Letter of Instructions No. 229 is hereby amended to read as follows: '3. The Land Transportation Commissioner shall require every motor vehicle owner to procure from any source and present at the registration of his vehicle, one pair of a reflectorized triangular early warning device, as described herein, of any brand or make chosen by said motor vehicle owner. The Land Transportation Commissioner shall also promulgate such rules and regulations as are appropriate to effectively implement this order.'"[4] There was issued accordingly, by respondent Edu, the implementing rules and regulations on December 10, 1976.[5] They were not enforced as President Marcos, on January 25, 1977, ordered a six-month period of suspension insofar as the installation of early warning device as a pre-registration requirement for motor vehicles was concerned.[6] Then on June 30, 1978, another Letter of Instruction[7] ordered the lifting of such suspension and directed the immediate

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[3] Petition, par. III.

[4] *Ibid.*, par. IV.

[5] *Ibid.*, par. V.

[6] *Ibid.*, par. VIII.

[7] No. 716.

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implementation of Letter of Instruction No. 229 as amended.[8] It was not until August 29, 1978 that respondent Edu issued Memorandum Circular No. 32, worded thus: "In pursuance of Letter of Instructions No. 716, dated June 30, 1978, directing the implementation of Letter of Instructions No. 229, as amended by Letter of Instructions No. 479, requiring the use of Early Warning Devices (EWD) on motor vehicles, the following rules and regulations are hereby issued: 1. LTC Administrative Order No. 1, dated December 10, 1976; shall now be implemented provided that the device may come from whatever source and that it shall have substantially complied with the EWD specifications contained in Section 2 of said administrative order; 2. In order to insure that every motor vehicle, except motorcycles, is equipped with the device, a pair of serially numbered stickers, to be issued free of charge by this Commission, shall be attached to each EWD. The EWD serial number shall be indicated on the registration certificate and official receipt of payment of current registration fees of the motor vehicle concerned. All Orders, Circulars, and Memoranda in conflict herewith are hereby superseded, This Order shall take effect immediately."[9] It was for immediate implementation by respondent Alfredo L. Juinio, as Minister of Public Works, Transportation, and Communications.[10]

Petitioner, after setting forth that he "is the owner of a Volkswagen Beetle Car, Model 13035, already properly equipped when it came out from the assembly lines with blinking lights fore and aft, which could very well serve as an early warning device in case of the emergencies mentioned in Letter of Instruction No. 229, as amended, as well as the implementing rules and regulations in Administrative Order No. 1 issued by the Land Transportation Commission,"[11] alleged that said Letter of Instruction No. 229, as amended, "clearly violates the provisions

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[8] Petition, par. VII.

[9] *Ibid*, par. VIII.

[10] *Ibid.*

[11] *Ibid*, par. IX.

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and delegation of police power, [*sic*] * * *." For him, they are "oppressive, unreasonable, arbitrary, confiscatory, nay unconstitutional and contrary to the precepts of our compassionate New Society."[12] He contended that they are "infected with arbitrariness because it is harsh, cruel and unconscionable to the motoring public";[13] are "one-sided, onerous and patently illegal and immoral because [they] will make manufacturers and dealers instant millionaires at the expense of car owners who are compelled to buy a set of the so-called early warning device at the rate of ₱56.00 to ₱72.00 per set,"[14] are unlawful and unconstitutional and contrary to the precepts of a compassionate New Society [as being] compulsory and confiscatory on the part of the motorists who could very well provide a practical alternative road safety device, or a better substitute to the specified set of EWDs."[15] He therefore prayed for a judgment declaring both the assailed Letters of Instructions and Memorandum Circular void and unconstitutional and for a restraining order in the meanwhile.

A resolution to this effect was handed down by this Court on October 19, 1978: "L-49112 (*Leovillo C. Agustin v. Hon. Romeo F. Edu, etc., et al.*) — Considering the allegations contained, the issues raised and the arguments adduced in the petition for prohibition with writ of preliminary prohibitory and/or mandatory injunction, the Court Resolved to [require] the respondents to file an answer thereto within ten (10) days from notice and not to move to dismiss the petition. The Court further Resolved to [issue] a [temporary restraining order] effective as of this date and continuing until otherwise ordered by this Court."[16]

Two motions for extension were filed by the Office of the Solicitor General and granted. Then on November 15, 1978,

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[12] *Ibid.*, par. X.

[13] *Ibid.*, par. XI.

[14] *Ibid.*, par. X.

[15] *Ibid.*, par. XI.

[16] Resolution of the Court dated October 19, 1978.

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The Answer for respondents was submitted. After admitting the factual allegations and stating that they lacked knowledge or information sufficient to form a belief as to petitioner owning a Volkswagen Beetle car, [17] they "specifically deny the allegations in paragraphs X and XI (including its subparagraphs 1, 2, 3, 4) of Petition to the effect that Letter of Instruction No. 229 as amended by Letters of Instructions Nos. 479 and 716 as well as Land Transportation Commission Administrative Order No. 1 and its Memorandum Circular No. 32 violates the constitutional provisions on due process of law, equal protection of law and undue delegation of police power, and that the same are likewise oppressive, arbitrary, confiscatory, one-sided, onerous, immoral, unreasonable and illegal, the truth being that said allegations are without legal and factual basis and for the reasons alleged in the Special and Affirmative Defenses of this Answer."[18] Unlike petitioner who contented himself with a rhetorical recital of his litany of grievances and merely invoked the sacramental phrases of constitutional litigation, the Answer, in demonstrating that the assailed Letter of Instruction was a valid exercise of the police power and implementing rules and regulations of respondent Edu are not susceptible to the charge that there was an infringement of the due process and equal protection guarantees and that there was an unlawful delegation of legislative power. It cited the decisions of this Tribunal calling for application, namely, *Calalang v. Williams*,[19] *Morfe v. Mutuc*,[20] and *Edu v. Ericta*.[21] Reference was likewise made to the 1968 Vienna Conventions of the United Nations on road traffic, road signs, and signals, of which the Philippines was a signatory and which was duly ratified.[22] Solicitor General Mendoza took pains to

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[17] Answer, pars. 1-6.

[18] *Ibid.*, par. 8.

[19] 70 Phil. 726 (1940). The opinion was penned by Justice Laurel.

[20] L-20387, January 31, 1968; 22 SCRA 424. The writer of this opinion is the *ponente*.

[21] L-32096, October 24, 1970, 35 SCRA 481. The writer of this opinion was likewise the *ponente*.

[22] Answer, par. 18 (a) and (b).

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refute in detail, in language calm and dispassionate, the vigorous, at times intemperate, accusation of petitioner that the assailed Letter of Instruction and the implementing rules and regulations cannot survive the test of rigorous scrutiny. To repeat, its highly-persuasive quality cannot be denied.

This Court thus considered the petition submitted for decision, the issues being clearly joined. As noted at the outset, it is far from meritorious and must be dismissed.

1. The Letter of Instruction in question was issued in the exercise of the police power. That is conceded by petitioner and is the main reliance of respondents. It is the submission of the former, however, that while embraced in such a category, it has offended against the due process and equal protection safeguards of the Constitution, although the latter point was mentioned only in passing. The broad and expansive scope of the police power which was originally identified by Chief Justice Taney of the American Supreme Court in an 1847 decision, as "nothing more or less than the powers of government inherent in every sovereignty"[23] was stressed in the aforementioned case of *Edu v. Ericta* thus: "Justice Laurel, in the first leading decision after the Constitution came into force, *Calalang v. Williams*, identified police power with state authority to enact legislation that may interfere with personal liberty or property in order to promote the general welfare. Persons and property could thus 'be subjected to all kinds of restraints and burdens in order to secure the general comfort, health and prosperity of the state.' Shortly after independence in 1948, *Primicias v. Fugoso* reiterated the doctrine, such a competence being referred to as 'the power to prescribe regulations to promote the health, morals, peace, education, good order or safety, and general welfare of the people.' The concept was set forth in negative terms by Justice Malcolm in a pre-Commonwealth decision as 'that inherent and plenary power in the State which enables it to prohibit all things hurtful to the comfort, safety and welfare of society.' In that sense it could be hardly distinguishable as

[23] License Cases, 5 How. 504, 583.

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noted by this Court in *Morfe v. Mutuc* with the totality of legislative power. It is in the above sense the greatest and most powerful attribute of government. It is, to quote Justice Malcolm anew, 'the most essential, insistent, and at least illimitable powers,' extending as Justice Holmes aptly pointed out 'to all the great public needs.' Its scope, ever expanding to meet the exigencies of the times, even to anticipate the future where it could be done, provides enough room for an efficient and flexible response to conditions and circumstances thus assuring the greatest benefits. In the language of Justice Cardozo: 'Needs that were narrow or parochial in the past may be interwoven in the present with the well-being of the nation. What is critical or urgent changes with the time.' The police power is thus a dynamic agency, suitably vague and far from precisely defined, rooted in the conception that men in organizing the state and imposing upon its government limitations to safeguard constitutional rights did not intend thereby to enable an individual citizen or a group of citizens to obstruct unreasonably the enactment of such salutary measures calculated to insure communal peace, safety, good order, and welfare."[24]

2. It was thus a heavy burden to be shouldered by petitioner, compounded by the fact that the particular police power measure challenged was clearly intended to promote public safety. It would be a rare occurrence indeed for this Court to invalidate a legislative or executive act of that character. None has been called to our attention, an indication of its being non-existent. The latest decision in point, *Edu v. Ericta*, sustained the validity of the Reflector Law,[25] an enactment conceived with the same end in view. *Calalang v. Williams* found nothing objectionable

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[24] 35 SCRA 481, 487-488. There is no need to repeat where Calalang and Morfe are reported. *Primicias v. Fugoso* is reported in 80 Phil. 71; *Rubi v. Provincial Board*, where the first quotation from Justice Malcolm came, in 39 Phil. 660, 708 (1919); and *Smith Bell and Co. v. Natividad*, his other decision cited, in 40 Phil. 136 (1919); *Helvering v. Davis*, with Justice Cardozo writing the opinion, in 301 US 619 (1937).

[25] Republic Act No. 5715 (1969).

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in a statute, the purpose of which was: "To promote safe transit upon, and avoid obstruction on roads and streets designated as national roads * * *."[26] As a matter of fact, the first law sought to be nullified after the effectivity of the 1935 Constitution, the National Defense Act,[27] with petitioner failing in his quest, was likewise prompted by the imperative demands of public safety.

3. The futility of petitioner's effort to nullify both the Letter of Instruction and the implementing rules and regulations becomes even more apparent considering his failure to lay the necessary factual foundation to rebut the presumption of validity. So it was held in *Ermita-Malate Hotel and Motel Operators Association, Inc. v. City Mayor of Manila*.[28] The rationale was clearly set forth in an excerpt from a decision of Justice Brandeis of the American Supreme Court, quoted in the opinion: "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 of this character, the presumption of constitutionality must prevail in the absence of some factual foundation of record in overthrowing the statute."[29]

4. Nor did the Solicitor General, as he very well could, rely solely on such rebutted presumption of validity. As was pointed out in his Answer: "The President certainly had in his possession the necessary statistical information and data at the time he issued said letter of instructions, and such factual

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[26] Commonwealth Act No. 548 (1940).

[27] Cf. *People v. Lagman*, 66 Phil. 13 (1938). Even earlier in *United States v. Pompeya*, 31 Phil. 245 (1915). this Court, by virtue of the police power, held valid a provision of the then Municipal Code requiring "able-bodied males in the vicinity between certain ages to perform patrol duty not exceeding one day each week."

[28] L-24693, July 31, 1967, 20 SCRA 849.

[29] *Ibid.*, 857. The excerpt came from *O'Gorman and Young v. Hartford Fire Insurance Co.*, 282 US 251, 328 (1931).

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foundation cannot be defeated by petitioner's naked assertion that early warning devices 'are not too vital to the prevention of nighttime vehicular accidents' because allegedly only 390 or 1.5 per cent of the supposed 26,000 motor vehicle accidents that occurred in 1976 involved rear-end collisions (p. 12 of petition). Petitioner's statistics is not backed up by demonstrable data on record. As aptly stated by this Honorable Court: 'Further: "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"' * * *. But even assuming the verity of petitioner's statistics, is that not reason enough to require the installation of early warning devices to prevent another 390 rear-end collisions that could mean the death of 390 or more Filipinos and the deaths that could likewise result from head-on or frontal collisions with stalled vehicles?"[30] It is quite manifest then that the issuance of such Letter of Instruction is encased in the armor of prior, careful study by the Executive Department. To set it aside for alleged repugnancy to the due process clause is to give sanction to conjectural claims that exceeded even the broadest permissible limits of a pleader's well-known penchant for exaggeration.

5. The rather wild and fantastic nature of the charge of oppressiveness of this Letter of Instruction was exposed in the Answer of the Solicitor General thus: "Such early warning device requirement is not an *expensive redundancy*, nor oppressive, for car owners whose cars are already equipped with 1) 'blinking-lights in the fore and aft of said motor vehicles,' 2) 'battery-powered blinking lights inside motor vehicles,' 3) 'built-in reflectorized tapes on front and rear bumpers of motor vehicles,' or 4) 'well-lighted two (2) petroleum lamps (the *Kinke*) * * * because: Being universal among the signatory countries to the said 1968 Vienna Conventions, and visible even under adverse conditions at a distance of at least 400 meters, any motorist from this country or from any part of the world,

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[30] Answer, par. 18 (a). The excerpt came from *Samson v. Mayor of Bacolod City*, L-28745; October 23, 1974; 60 SCRA 267; 270.

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who sees a reflectorized rectangular early warning device installed on the roads, highways or expressways, will conclude, without thinking, that somewhere along the travelled portion of that road, highway, or expressway, there is a motor vehicle which is stationary, stalled or disabled which obstructs or endangers passing traffic. On the other hand, a motorist who sees any of the aforementioned other built-in warning devices or the petroleum lamps will not immediately get adequate advance warning because he will still think what that blinking light is all about. Is it an emergency vehicle? Is it a law enforcement car? Is it an ambulance? Such confusion or uncertainty in the mind of the motorist will thus increase, rather than decrease, the danger of collision."[31]

6. Nor did the other extravagant assertions of constitutional deficiency go unrefuted in the Answer of the Solicitor General: "There is nothing in the questioned Letter of Instruction No. 229, as amended, or in Administrative Order No. 1, which requires or compels motor vehicle owners to purchase the early warning device prescribed thereby. All that is required is for motor vehicle owners concerned like petitioner, to equip their motor vehicles with a pair of this early warning device in question, procuring or obtaining the same from whatever source. In fact, with a little of industry and practical ingenuity, motor vehicle owners can even personally make or produce this early warning device so long as the same substantially conforms with the specifications laid down in said letter of instruction and administrative order. Accordingly, the early warning device requirement can neither be oppressive, onerous, immoral, nor confiscatory, much less does it make manufacturers and dealers of said devices 'instant millionaires at the expense of car owners' as petitioner so sweepingly concludes * * *. Petitioner's fear that with the early warning device requirement 'a more subtle racket' may be committed by those called upon to enforce it * * * is an unfounded speculation. Besides, that unscrupulous officials may try to enforce said requirement in an unreasonable manner or

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[31] *Ibid.*, par. 18 (c).

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to an unreasonable degree, does not render the same illegal or immoral where, as in the instant case, the challenged Letter of Instruction No. 229 and implementing order disclose none of the constitutional defects alleged against it."[32]

7. It does appear clearly that petitioner's objection to this Letter of Instruction is not premised on lack of power, the justification for a finding of unconstitutionality, but on the pessimistic, not to say negative, view he entertains as to its wisdom. That approach, to put it at its mildest, is distinguished, if that is the appropriate word, by its unorthodoxy. It bears repeating "that this Court, in the language of Justice Laurel, 'does not pass upon questions of wisdom, justice or expediency of legislation.' As expressed by Justice Tuason: 'It is not the province of the courts to supervise legislation and keep it within the bounds of propriety and common sense. That is primarily and exclusively a legislative concern.' There can be no possible objection then to the observation of Justice Montemayor: 'As long as laws do not violate any Constitutional provision, the Courts merely interpret and apply them regardless of whether or not they are wise or salutary.' For they, according to Justice Labrador, 'are not supposed to override legitimate policy and * * * never inquire into the wisdom of the law.' It is thus settled, to paraphrase *Chief Justice Concepcion in Gonzales v. Commission on Elections*, that only congressional power or competence, not the wisdom of the action taken, may be the basis for declaring a statute invalid. This is as it ought to be. The principle of separation of powers has in the main wisely allocated the respective authority of each department and confined its jurisdiction to such a sphere. There would then be intrusion not allowable under the Constitution if on a matter left to the discretion of a coordinate branch, the judiciary would substitute its own. If there be adherence to the rule of law, as there ought to be, the last offender should be courts of justice, to which rightly litigants submit their controversy precisely to maintain unimpaired the supremacy of legal norms and prescriptions. The attack on the validity of the challenged provision

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[32] *Ibid.*, par. 18 (d) and (e).

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likewise insofar as there may be objections, even if valid and cogent, on its wisdom cannot be sustained."[33]

8. The alleged infringement of the fundamental principle of non-delegation of legislative power is equally without any support in well-settled legal doctrines. Had petitioner taken the trouble to acquaint himself with authoritative pronouncements from this Tribunal, he would not have the temerity to make such an assertion. An excerpt from the aforecited decision of Edu v. Ericta sheds light on the matter: "To avoid the taint of unlawful delegation, there must be a standard, which implies at the very least that the legislature itself determines matters of principle and lays down fundamental policy. Otherwise, the charge of complete abdication may be hard to repel. A standard thus defines legislative policy, marks its limits, maps out its boundaries and specifies the public agency to apply it. It indicates the circumstances under which the legislative command is to be effected. It is the criterion by which legislative purpose may be carried out. Thereafter, the executive or administrative office designated may in pursuance of the above guidelines promulgate supplemental rules and regulations. The standard may be either express or implied. If the former, the non-delegation objection is easily met. The standard though does not have to be spelled out specifically. It could be implied from the policy and purpose of the act considered as a whole. In the Reflector Law, clearly, the legislative objective is public safety. What is sought to be attained as in *Calalang v. Williams* is "safe transit upon the roads." This is to adhere to the recognition given expression by Justice Laurel in a decision announced not too long after the Constitution came into force and effect that

[33] *Morfe v. Mutuc*, 22 SCRA 424, 450-451. The citation from Justice Laurel may be traced to *Angara v. Electoral Commission*, 63 Phil. 139, 160 (1936); from Justice Tuason to *People v. Carlos*, 78 Phil. 535, 548 (1947); from Justice Montemayor to *Quintos v. Lacson*, 97 Phil. 290, 293 (1955); and from Justice Labrador to *Ichong v. Hernandez*, 101 Phil. 1155, 1166 (1957). Chief Justice Concepcion's reiteration of the doctrine, paraphrased in the quoted opinion, was made by him in *Gonzales v. Commission on Elections*, L-28196, November 9, 1967, 21 SCRA 774. Cf. *Province of Pangasinan v. Secretary of Public Works*, L-27861, October 31, 1969, 30 SCRA 134.

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the principle of non-delegation "has been made to adapt itself to the complexities of modern governments, giving rise to the adoption, within certain limits, of the principle of "subordinate legislation" not only in the United States and England but in practically all modern governments.' He continued: 'Accordingly, with the growing complexity of modern life, the multiplication of the subjects of governmental regulation, and the increased difficulty of administering the laws, there is a constantly growing tendency toward the delegation of greater powers by the legislature and toward the approval of the practice by the courts.' Consistency with the conceptual approach requires the reminder that what is delegated is authority non-legislative in character, the completeness of the statute when it leaves the hands of Congress being assumed."[34]

9. The conclusion reached by this Court that this petition must be dismissed is reinforced by this consideration. The petition itself quoted these two whereas clauses of the assailed Letter of Instruction: "[Whereas], the hazards posed by such obstructions to traffic have been recognized by international bodies concerned with traffic safety, the 1968 Vienna Convention on Road Signs and Signals and the United Nations Organization (U.N.); [Whereas], the said Vienna Convention, which was ratified by the Philippine Government under P.D. No. 207, recommended the enactment of local legislation for the installation of road safety signs and devices;* * *."[35] It cannot be disputed then that this Declaration of Principle found in the Constitution possesses relevance: "The Philippines * * * adopts the generally accepted principles of international law as part of the law of the land, ** *."[36] The 1968 Vienna Convention on Road Signs

[34] 36 SCRA 481, 497-498. The following cases were also cited: *People v. Exconde*, 101 Phil. 1125 (1957), and *People v. Jolliffe*, 105 Phil. 677 (1959).

[35] Petition, par. III.

[36] Article II, Section 3 of the Constitution reads in full: "The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land, and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations."

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and Signals is impressed with such a character. It is not for this country to repudiate a commitment to which it had pledged its word. The concept of *Pacta sunt servanda* stands in the way of such an attitude, which is, moreover, at war with the principle of international morality.

10. That is about all that needs be said. The rather curt reference to equal protection did not even elicit any attempt on the part of petitioner to substantiate in a manner clear, positive, and categorical, why such a casual observation should be taken seriously. In no case is there a more appropriate occasion for insistence on what was referred to as "the general rule" in *Santiago v. Far Eastern Broadcasting Co.*,[37] namely, "that the constitutionality of a law will not be considered unless the point is specially pleaded, insisted upon, and adequately argued."[38] "Equal protection" is not a talismanic formula at the mere invocation of which a party to a lawsuit can rightfully expect that success will crown his efforts. The law is anything but that.

WHEREFORE, this petition is dismissed. The restraining order is lifted. This decision is immediately executory. No costs.

Castro, C.J., Barredo, Antonio, Santos, Fernandez, Guerrero, Abad Santos, De Castro, and *Melencio-Herrera*, concur.

Teehankee, J., dissents in a separate opinion.

Aquino, J., took no part.

Makasiar, J., reserves the right to file a separate opinion.

Concepcion, J., on leave.

Castro, C.J., certifies that Justice Concepcion concurs in their decision.

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[37] 73 Phil. 408 (1941).

[38] *Ibid.*, 412.

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SEPARATE OPINION

TEEHANKEE, *J.*, *dissenting*:

I dissent from the majority's peremptory dismissal of the petition and lifting of the restraining order issued on October 19, 1978 against the blanket enforcement of the requirement that all motor vehicles be equipped with the so-called early warning device, without even hearing the parties in oral argument as generally required by the Court in original cases of far-reaching consequence such as the case at bar.

Lack of time presents my filing an extended dissent. I only wish to state that the petition advances grave and serious grounds of assailing "the rules and regulations issued by the Land Transportation Commission under Administrative Order No. 1 and Memorandum Circular No. 32 [which] do not reflect the real intent, noble objectives and spirit of Letter of Instructions No. 229, as amended by Letter of Instructions Nos. 479 and 716, because it is oppressive, unreasonable, arbitrary, confiscatory, nay unconstitutional and contrary to the precepts of our compassionate New Society," because of the following considerations, *inter alia*:

1. It is oppressive, arbitrary and discriminatory to require owners of motor vehicles with built-in and more effective and efficient E.W.D.'s such as "a) blinking lights in the fore and aft of said motor vehicles, b) battery-powered blinking lights inside motor vehicles, c) built-in reflectorized tapes on front and rear bumpers of motor vehicles . . ." to purchase the E.W.D. specified in the challenged administrative order, whose effectivity and utility have yet to be demonstrated.

2. The public necessity for the challenged order has yet to be shown. No valid refutation has been made of petitioner's assertion that the "E.W.D.'s are not too vital to the prevention of nighttime vehicular accidents. Statistics shows that of the 26,000 motor vehicle accidents that occurred in 1976, only 390 or 1.5 per cent involved rear-end collisions," as to require the purchase and installation of the questioned E.W.D. for almost 900,000 vehicles throughout the country;

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3. The big financial burden to be imposed on all motorists is staggering, and petitioner's assertion that "as of 1975, there were at least 865,037 motor vehicles all over the country requiring E.W.D.'s and at the minimum price of ₱56.00 per set, this would mean a consumer outlay of ₱48,451,872.00, or close to ₱50 million for the questioned E.W.D.'s" stands unchallenged;

4. No real effort has been made to show that there can be practical and less burdensome alternative road safety devices for stalled vehicles than the prescribed E.W.D., such as the common petroleum lamps "kinke" which can be placed just as effectively in front of stalled vehicles on the highways; and

5. There is no imperative need for imposing such a blanket requirement on all vehicles. The respondents have not shown that they have availed of the powers and prerogaties vested in their offices such as ridding the country of dilapidated trucks and vehicles which are the main cause of the deplorable highway accidents due to stalled vehicles, establishing an honest and foolproof system of examination and licensing of motor vehicle drivers so as to ban the reckless and irresponsible and a sustained education campaign to instill safe driving habits and attitudes that can be carried out for much less than the ₱50 million burden that would be imposed by the challenged order.

I do feel that a greater "degree of receptivity and sympathy" could be extended to the petitioner for his civic mindedness in having filed the present petition challenging as capricious and unreasonable the "all pervading police power" of the State instead of throwing the case out of court and leaving the wrong impression that the exercise of police power insofar as it may affect the life, liberty and property of any person is no longer subject to judicial inquiry.