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THE DEVELOPMENT OF PUBLIC UTILITY REGULATION IN THE PHILIPPINES

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An appreciable measure of public regulation and supervision is now accepted as normal in the so-called public service industries or businesses. Public utility regulation on a comprehensive and extensive plan in the Philippine Islands began only on December 19, 1913, when Act No. 2307 was enacted, creating the Board of Public Utility Commissioners patterned after the public utility law of New Jersey. However, prior to this time, laws had been enacted by the Philippine Commission creating certain administrative bodies having some supervision over the activities of public utilities, but the powers of these bodies were limited to fact-finding and rate making. They had none of the broad powers exercised by the present Public Service Commission.

Regulation of public utilities in the Philippines at present is effected through three agencies, to wit: (1) legislative bodies (national and local), (2) the Public Service Commission, and (3) to a limited extent, the Courts. Of these agencies, the most important is the Commission.

The historical development of public utility regulation in the Islands may be divided roughly into two periods. The first period was by direct statutory control, and the second by indirect control thru administrative boards or commissions. Direct legislation took the form of franchise grants, such as the laws granting franchises to the Manila Electric Company, the Manila Railroad Company, the Manila Gas Corporation, the Philippine Telephone and Telegraph Company, and other public service corporations.

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DIRECT STATUTORY CONTROL AND REGULATION

The first period consisting of regulation by franchises is very significant. It is a period marked by intense activity on the part of railroad, railway, street tramway, gas, and telephone promoters, engineers, and builders. In this period, legislation was enacted in the direction of encouraging all these utilities.

Some of the important laws passed by the Philippine Commission granting franchises to different companies engaged in public business in the Islands were: (1) Act No. 484, enacted on October 20, 1902, as amended, granting a franchise to the Manila Electric Company to construct an electric street railway on the streets of Manila and its suburbs, and to construct, maintain and operate an electric light, heat and power system in the City of Manila and its suburbs.

(2) Act No. 1368, enacted on July 6, 1905, as amended, granting the Philippine Telephone and Telegraph Company (the original grantees were Messrs. John J. Sabin and Louis Glass) a franchise to construct, maintain and operate telephone and telegraphic systems and to carry on electric transmission in and between provinces, cities and municipalities of the Island of Luzon.

(3) Act No. 1497, enacted on May 28, 1906, as amended, granting to the Manila Railroad Company a concession to construct railways in the Islands of Panay, Negros, and Cebu.

(4) Act No. 1510, enacted on July 7, 1906, as amended, granting to the Manila Railroad Company a concession for railway lines in the island of Luzon, and providing for condemnation proceedings in regard to land required by public service corporations.

(5) Act No. 2039, enacted on February 3, 1911, as amended, granting the Manila Gas Corporation authority to construct, maintain, and operate a gas system for the furnishing of gas, heat, light, and power in the city of Manila and the province of Rizal.

Similar franchises were granted by special laws to various other individuals and corporations who desired to engage in similar public service business. (See Acts Nos. 1111, 1223, and 1303.)

The rates to be charged by the said companies were expressly provided for in the franchises. Not only were the

rates regulated through these franchises, but also the books and accounts, the change of routes, and the alienation of property of the public utilities concerned. At present the policy of the government in granting franchises to individual, corporation, or copartnership is to place the power to fix the rates of the grantees in the hands of the Public Service Commission.

REGULATION THROUGH ADMINISTRATIVE BOARDS OR COMMISSIONS

The first regulation by the Philippine Government of the public utility companies was the enactment of Act No. 98, on March 1, 1901 of the Philippine Commission which made it unlawful for any common carrier engaged in the transportation of passengers and property to give directly or indirectly a rebate, or reduced rate to any class of person, or to give unfair preference or discrimination to any particular person, company or corporation. Most of the provisions of this law were left unrepealed by subsequent legislation. This law was limited, however, to penalizing unjust discrimination in the transportation of passengers and property. It did not fix the rates. Later it was amended by Act No. 603 to permit common carriers of passengers and property to enter into agreement, granting special rates to officers and members of the Army and Navy, their families and properties, when they were travelling at their own expense.

The regulation of public utilities or corporations was also covered in Section 74 of the Act of Congress of July 1, 1902, known as the Philippine Bill. It authorizes the granting of franchises, and provides for the effective regulation of the rates of public service corporations.

COASTWISE RATE COMMISSION

The first law providing for the regulation of public utilities by an official board was Act No. 520, enacted on November 17, 1902, which provided for the creation of a Coastwise Rate Commission, consisting of three members, all to be appointed by the Civil Governor. This was the first tangible attempt on the part of the government to regulate the rates charged by public utilities. It was also the first time that a commission, or a regulatory body had been established. Though its scope was very limited, as it was empowered to fix only the maximum

rates for the transportation of merchandise and passengers in the coastwise trade, yet it was a forward step, and a change in the attitude of our government toward the control and regulation of common carriers engaged in the coastwise trade. Under the old law, the common carriers had been permitted to fix whatever rates they chose. But before the Commission could fix the maximum rates, it had first to grant a public hearing to all common carriers engaged in the coastwise trade, and any one not satisfied with the decision of the Commission, could appeal to the Court of Customs Appeals whose decision was to be final.

INSULAR COLLECTOR OF CUSTOMS

Another law passed by the Philippine Commission in line with its policy to regulate business affecting the public was Act No. 1136, authorizing the Collector of Customs of the Philippines to license vessels engaged exclusively in the lighterage and harbor business, and to provide for the regulation of that business. Section 5 of this Act empowered the Collector to make and publish suitable rules and regulations to carry out the provisions of the law into effect. In an opinion rendered by the Attorney-General on May 15, 1912, on the question as to whether this Act authorized the Insular Collector of Customs to prescribe rates for the transaction of lighterage and harbor business, it was declared that the said law gave such power to the Collector of Customs. The Attorney-General concluded that "the power to regulate a business is to subject it to certain rules or restrictions, to restrain it, and one of the means of restraining a business to protect the public from an unjust discrimination is to fix the limit of rates chargeable therefor."

SUPERVISING RAILWAY EXPERT

On June 20, 1906, Act No. 1507 was enacted, creating the office of Supervising Railway Expert in the former Department of Commerce and Police. Among other things, this official was given the supervision of the construction and operation of all railways and railroads in the Islands. Hence, the Manila Railroad Company and the Philippine Railway Company were placed under the control and supervision of this office. Furthermore, the Supervising Railway Expert served as an ad-

viser to the Governor-General in the future granting of franchises for the construction and operation of railroads in the Philippine Islands.

BOARD OF RATE REGULATION

By virtue of the enactment of Act No. 1779 on October 12, 1907, the Board of Rate Regulation was created. This was composed of the Governor-General, as ex-officio chairman, the Secretary of Commerce and Police, and one other person to be appointed by the Governor-General, with the advise and consent of the Philippine Commission. This Board practically superseded the powers and functions of the Coastwise Rate Commission, and was organized to exercise a watchful and careful supervision over all kinds of rates of every public utility. It had the power to fix, revise, regulate, reduce or increase the said rates from time to time, as justice to the public and the corporation might require. For more than seven years, this Board was the principal regulatory body of public utilities.

The powers of the Collector of Customs to regulate the rates of persons engaged in lighterage and harbor business were also transferred to the said Board. Unlike Act No. 520 which created the Coastwise Rate Commission, Act No. 1779 did not provide for any appeal from the order or decision of the Board. Though this part of the law has never been questioned, it is doubtful whether it could stand the test of a due process clause attack, because it is a fundamental principle of law that administrative rate-regulating orders can not be final. [Chicago etc. Ry Co. *vs.* Minnesota, 134 U. S. 418 (1899)]. Like its counterpart, the Coastwise Rate Commission, the functions of the Board of Rate Regulation were also limited to the fixing of rates. One of the great practical accomplishments of this Board was the promulgation of Order No. 16, which constitutes the basic structure of the rate system at present on interisland carriers in the Philippine Islands. Most of the provisions of this Order are still enforced.

BOARD OF PUBLIC UTILITY COMMISSIONERS

The most effective regulatory administrative body over public utilities created by the Philippine Legislature has been the Board of Public Utility Commissioners. This Board was

created because of the rapid growth in the number of public utilities in the Islands and also because of the inability of the Board of Rate Regulation to solve many complicated public utility problems, owing to lack of technical knowledge and training. Acting Governor-General Gilbert strongly recommended the creation of a Public Utility Commission with powers and duties equivalent to those exercised by such commissions in the United States. His message to the Philippine Commission in part reads:

“The Acting Governor-General is of the opinion that the Board as at present constituted is not as useful to the community as such board should be, and strongly recommends that a public utility commission, having the powers and duties of such commissions in the States of the United States, be created to take the place of the present board of rate regulation. The necessity for such a body is very real.” (Report of the Philippine Commission, 1913, p. 34.)

Hence, in accordance with the recommendation mentioned above, Act No. 2307, was enacted on December 13, 1913, creating a Board of Public Utility Commissioners. Thus the dawn of real commission regulation in the Islands began. This law had a far reaching effect as it repealed Act No. 520 which created the Coastwise Rate Commission, and Act No. 1779 which established the Board of Rate Regulation. All the powers and duties of the regulatory bodies just mentioned, as well as those of the Supervising Railway Expert, were later transferred to the Board of Public Utility Commissioners. Act No. 2307 is patterned after the public utility law of New Jersey as already stated above. [See *City of Manila vs. Manila Electric Railroad and Light Co.*, 36 Phil. Rep. 99]. The board created by this law was composed of three members, all appointed by the Governor-General, with the advise and consent of the Philippine Commission.

The board began its functions in the early part of 1914, with Hon. Mariano Cui, former Judge of the Court of First Instance, as President. Hon. Cui remained with the Commission from its foundation until his retirement in June, 1930. He was largely responsible for the reorganization of the Commission, and for the promulgation of many important decisions and

rules. The organization of this board was the subject of several amendments, embodied in Acts Nos. 2313 and 2362.

The Board of Public Utility Commissioners ceased to exist as a three-member Board on December 31, 1916, as the appropriation law for 1916 provided for only one Commissioner. Thereafter, Act No. 2694 enacted on March 9, 1917 vested all the powers and duties of the former Board in one Commissioner. As the former President of the Board had been on duty since the later part of December, 1916, Act No. 2694 ratified also all the actions taken prior to its passage by the said President without the concurrence of the other members, the former law having required majority approval for the validity of any order or decision.

It is not my desire to review the great accomplishments of this Board, suffice it to say here that it promulgated a set of "Rules of Practice", and also published most of its important decisions and orders in a book called "Vol. I, Reports of the Board of Public Utility Commissioners."

PUBLIC SERVICE COMMISSION

The amazing growth of auto-trucks and automobile transportation throughout the Islands, brought with it many problems which the Philippine government has been called upon to solve. Under the first commission regulation, Act No. 2307, creating the Board of Public Utility Commissioners, land transportation was not classified as a public utility. In view of the tremendous increase of land transportation, and the consequent extension of the activities of the public utilities already established, the Philippine Legislature passed Act No. 3108, on March 19, 1923, which repealed all previous public utility laws and provided for the establishment of a Public Utility Commission, consisting of two members, a Public Utility Commissioner and one Assistant Public Utility Commissioner. This Act placed under the jurisdiction of the new Commission all public utilities, including land motor transportation. Practically it retained all the provisions of Act No. 2307.

One of the important provisions of this law, which revolutionized public utility regulation in the Islands, was the requirement of permit from the Commission, this permit to be known as a Certificate of Public Convenience, or Certificate of Public Necessity and Convenience. The former is a permit granted

by the Commission before a public utility can commence operation, while the latter is also a permit given by the Commission but with the additional requirement that the public utility must first obtain a franchise either from the municipal council or from the Philippine Legislature. Certificate of Public Necessity and Convenience is generally given to corporations that desire to engage in railroad, street railway, electric plants and similar public utilities. The consent and approval given by the municipal council or the Philippine Legislature to the grantee to operate such public utility does not give with it the power to pass upon the convenience and necessity of the proposed utility. That action is reserved solely for the Commission.

Due to the increased number of utilities, the number of cases calling for immediate action by the Commission increased so rapidly that it was decided to increase the number of Commissioners to three. By the amendatory law (Act No. 3316), the names of the "Public Utility Commission", the "Public Utility Commissioner" and the "Assistant Public Utility Commissioner" were changed to those of "Public Service Commission," "Public Service Commissioner," and the "Associate Public Service Commissioners," respectively.

Another important provision of Act No. 3316 was the authority and power it gave to each Commissioner to hold investigations and hearings and to announce his findings or decisions; for the law expressly provided "that the powers vested upon the Public Service Commission shall be considered as vested upon any of the Commissioners acting either individually or jointly". This provision is unique, for under the former laws creating boards or commissions having control over public utilities, the members were permitted to sit singly or individually for the purpose of taking the testimony in a proceeding, but always in order to make an order valid and binding a majority vote of the board was necessary. The great benefit derived from this law was the prompt dispatch of cases.

A joint court however, may be constituted, under this law, in two instances. First, any one of the Commissioners may call the other two Commissioners when an especially difficult and important matter has come up which in his judgment requires the opinion, advice and concurrence of his colleagues. Secondly, a joint court can be called when either of the parties appearing before the Commission requests it. In these two in-

stances the three Commissioners act jointly as a collegiate court, and the case is decided by a majority vote of the Commissioners.

All decisions whether in banc or by individual Commissioner are appealable to the Supreme Court of the Philippine Islands. The Supreme Court's power to modify or set aside order and decision of the Commission is limited only when it clearly appears that there was no evidence before the Commission to support reasonably such order, or that the same was made without jurisdiction of the Commission.

Under the old law, when the powers of the Commission were vested in one Public Utility Commissioner, before an order or decision of the said Commissioner could be brought to the Supreme Court for review, it had to pass first thru an intermediate Board, composed of the Public Utility Commissioner, as Chairman; the Attorney-General, or his representative; and the Director of Public Works. (Section 37 of Act 2307, as amended by Section 30 of Act No. 2694) Under the present law the appeal can be brought directly to the Supreme Court without passing thru an intermediate Board.

The regulatory agency thru which the government of the Philippine Islands exercises supervision and control over all public utilities is designated and known as Public Service Commission. It consists of three members, all of whom must belong to the legal profession. They are appointed by the Governor-General with the advice and consent of the Philippine Senate. Their tenure of office is during good behavior. It is doubtful whether the law requiring the judges of Courts of First Instance of the Philippine Islands to retire upon reaching the age of 65 is applicable to the Commissioners though they belong to the Judiciary, and have the rank and enjoy all the rights and privileges of the judges of the Courts of First Instance.

An idea of the extent of the work necessary to carry out the provisions of the Act creating the Commission will be obtained if we consider the following list of utilities subject to the jurisdiction of the Commission; railroad, street railways, traction railway, subway, freight and passenger motor vehicles, with or without fixed route, freight or any other car service, express service, steamboat or steamship line, ferries, small water craft, such as lighters, pontines, lorchas, and others engaged in the transportation of passengers or cargo, shipyard, marine railway, marine repair shop, public warehouse, public

wharf or dock not under the jurisdiction of the Insular Collector of Customs, ice, refrigeration, canal, irrigation, pipe line, gas, electric light, heat, power, water, oil, sewer, telephone, wire or wireless telegraph system, plant or equipment; provided that the Commission shall have no jurisdiction over the ice plants, cold storage plants, or any of the other services above mentioned operated by the Federal Government exclusively for its own use. The Commission has also general supervision over the properties, property rights, equipment, facilities, and franchises of the various public services enumerated above.

In 1927, however, the Legislature passed a law (Act No. 3376) removing jurisdiction over the Manila Railroad Company from the Commission with the exception of the fixing of all classes of passenger and freight rates. A similar law (Act No. 3418) was enacted on December 7, 1927, taking away the control and supervision of the Commission over vessels operated within the Islands, except with regard to the fixing of maximum passenger and freight rates. Since the enactment of this law, a great improvement in interisland shipping has been noticed. The effect of this law on the development of the interisland service has been the subject of varied comments from the many business men, particularly the Filipino shipowners. During the middle part of 1931, the Philippine Shipowners' Association petitioned the Court of First Instance of Manila for a declaration of its rights and duties in accordance with the Declaratory Judgment Law, alleging among other things that the said law is discriminatory and class legislation, hence, void. Judge Albert in a very exhaustive opinion, rendered on December 7, 1932, dismissed the said petition and declared that the law is valid. No appeal from this decision has been taken to the Supreme Court by the shipowners.

RULES AND REGULATIONS PROMULGATED BY THE COMMISSION

A body of rules and regulations governing the operation of public services with particular reference to automobiles, auto-trucks and ice plants was promulgated by the Commission, known as Commission Order No. 1. This Order which was made effective on January 1, 1927, had been the subject of several amendments. One of the most important amendments is to prohibit irregular operators of auto-trucks from changing their equipment without first converting their service into reg-

ular one. The main purpose of this regulation is to encourage auto-truck operators to have regular time schedule and fixed routes in their operations, because it has been observed by the Commission that regular operators generally follow the conditions of their certificates of public convenience and render better service to the public.

Other amendments or additional provisions to Order No. 1 of the Commission with reference to the operation of motor land transportation are the prohibitions to fictitiously register in the names of operators in the Bureau of Public Works, motor vehicles of other persons who are not public service operators; not to employ chauffeurs, conductors, inspectors, auditors and other employees who are not courteous and of good moral character; and the regulations requiring auto-truck and automobile operators to place the tariff duly authorized by the Commission on the windshield of each of their auto-trucks or automobiles, or in the absence thereof, on a sign board of adequate size, which shall be put in a most conspicuous place for the guidance and information of the public.

The main purpose of these regulations is to give additional protection or safeguard to the travelling public.

On account of the enforcement of the law taking away the jurisdiction of the Commission over vessels, Order No. 2 was promulgated on July 1, 1928. This order amends Order No. 16 of the former Board of Rate Regulation as far as it affects passenger and freight rates on vessels whose home port is either Cebu, Iloilo or Zamboanga. This Order did not, however, in any way supersede Order No. 16 in so far as it affects the rates of vessels whose home port is Manila.

Another Order issued by the Commission which has something to do with the regulation of rates on interisland vessels is Order No. 3 which amends the rates provided for in Order No. 16 in so far as vessels whose home port is Manila. This Order took effect on January 1, 1931. It may be stated in this connection that the rates prescribed by Order No. 2 are lower than those contained in Order No. 3 because of the fact that most of the owners of vessels in the Visayan Island use their vessels not only for the public but also for the promotion and furtherance of their own private business. The different classes of passenger and freight rates embodied in Orders Nos. 16, 2 and 3, are now considered as maximum rates.

Another essential step taken by the Commission towards the development of public utility regulations, is the promulga-

tion of the joint regulations between the Philippine Constabulary, the Bureau of Public Works and the Public Service Commission, which took effect on August 1, 1930. These joint regulations delegate to the constabulary men the effective enforcement of the provisions of the public service law and the rules of the Commission, and authorizing the Constabulary officers to suspend the operation of any land motor transportation in certain cases, such as, when the auto-trucks or automobiles are found in unserviceable conditions; making trips outside their prescribed routes; and charging rates not duly authorized.

In the case of *CEBU AUTOBUS CO. vs. CAPT. SIMEON DE JESUS*, 31 Off. Gaz. 75, (1933), these regulations were challenged before the Supreme Court by the Cebu Autobus Co., one of the biggest auto-truck operators in the Islands, on the ground that they constitute an unlawful delegation of the powers of the Commission. The Supreme Court in its decision promulgated on December 31, 1931 sustained the validity of these joint regulations.

However, by virtue of the enactment of Act No. 3884, no certificate of public convenience issued in accordance with law shall be suspended, revoked or cancelled without giving the interested party an opportunity to be heard directly by the Public Service Commission. The aim of this law is laudable. It is believed that the power of the Constabulary officers to suspend the auto-trucks or automobiles of an operator that violate the regulations, is now restricted by the said law.

EXTENT OF THE GROWTH AND VOLUME OF WORK OF THE COMMISSION

The Commission at present controls more of the country's wealth than any other entity of the government. Its actions, directly or indirectly, affect every citizen in the Islands. Appendix "A" shows the capital investment in various classes of utilities by different nationalities as compiled by the Commission during the year 1930.

The volume of work before the Commission is best illustrated by the fact that there were filed with the Commission during the year 1930, 4068 cases, which included 531 applications for certificate of public convenience for auto-trucks, automobiles, electric plants, taxicabs, ice plants, waterworks, and other classes of public services; 231 sales and transfers of business of various public services; 1,194 rate cases, and 1,246 complaints.

Those acquainted with public service affairs, will readily understand that in the disposition of the matters referred to, considerable time and labor had to be employed, particularly in the disposal of rate cases. Furthermore, complaints filed by applicants and patrons of public services were also properly attended to. This was necessary because of the enactment on November 26, 1930 of Act No. 3763 which requires the presentation of complaints against public services within two months from the date of the commission of the violation.

The Public Service Commission of the Philippine Islands, unlike some of its contemporaries in the United States, has jurisdiction over all public services, including those owned or operated by municipal, provincial and insular governments.

There has been a marked tendency in recent years to consolidate and merge smaller utilities into bigger operating units. Transactions of this nature has been specially pronounced among electric plants, automobile and auto-truck transportation companies. The Commission has approved transactions involving consolidation and merger, whenever it was convinced that the public interest would be better served by such merger.

At present practically all roads of the Philippine Islands are served by auto-truck and automobile transportation. As a matter of fact, even for proposed roads applications have already been filed with the Commission. In land transportation there is keen rivalry between various operators.

The Supreme Court of the Philippine Islands in the leading case of *BATANGAS TRANSPORTATION COMPANY vs. CAYETANO ORLANES* [52 Phil. Rep. 455, (1928)] promulgated the following doctrine regarding the protection to be given to the first holder of a certificate of public convenience of auto-truck transportation:

“The government having taken over the control and supervision of all public utilities, so long as an operator under a prior license complies with the terms and conditions of his license, and reasonable rules and regulations for its operation, and meets the reasonable demands of the public, it is the duty of the Commission to protect rather than to destroy its investment by the granting of a subsequent license to another for the same thing over the same route of travel. The granting of such a license does not serve its convenience or promote the interests of the public.”

During the recent years, there has been a great expansion and extension of land transportation and of ice and electric plants thruout the Islands. This is indicated by the fact that last year about thirty new electric plants were installed in various parts of the country. At the present time, there is a considerable number of applications before the Commission for the establishment and operation of new electric plants.

In view of the activity of the Manila Electric Company three years ago in buying many of the electric plants already established in the Islands, and fearing that this policy might eventually vest in the said company absolute control and monopoly of all electric plants in the Islands, the Philippine Legislature passed a law (Act No. 3636) prohibiting the grantees of electric franchises from selling, leasing, conveying, or transferring to any individual, copartnership, or corporation without first obtaining the consent of the Legislature. This law seems to be nationalistic in its tendency. It is not applicable to electric plants whose franchises have been granted by the municipal councils. By virtue of the provisions of Act No. 667, as amended by Act No. 1022, municipalities are duly authorized to grant franchises for the operation of electric plants when these have the approval of the provincial board, the Commission, and the Governor-General.

But for the purpose of leasing, mortgaging and transferring the rights of the grantee, the approval of the Commission is all that is necessary.

REGULATION THRU LOCAL AUTHORITIES

It is necessary to discuss briefly regulation of public utilities by local authorities. This practice has existed for some times in the Philippine Islands,—the Insular Government allowing these local authorities to regulate their respective utilities, especially when they are owned and operated by themselves. This has been done thru franchise contracts and ordinances. As a matter of fact, Act No. 667, as amended by Act No. 1022 of the Philippine Commission expressly authorizes municipal councils with the approval of the provincial board, the Public Service Commission and the Governor-General to grant franchises for the construction and operation of street railways, electric light and power plants. The said law also authorizes the municipal councils to fix the conditions upon which the said franchises may be granted, and is still in force.

The Municipal Board of the City of Manila has the power over some phases of the activities of public utilities operating within the City of Manila, such as its authority to regulate the speed limit of the street cars of the Manila Electric Company. In a decision of the Supreme Court of the Philippine Islands, it was held that the Municipal Board of the City of Manila and not the Public Service Commission has the power to authorize the Manila Electric Company to abandon a trolley bus service and a street car service and to substitute therefor an auto-truck service [City of Manila *vs.* Public Service Commission, 52 Phil. Rep. 515 (1928)].

But regulation thru local authorities has proved to be a failure, for the simple reason that the municipalities do not have competent men with sufficient experience and training in the technique of public utility problems to advise and regulate the preparation of ordinances and the drafting of franchise contracts. Because of the broad powers granted to the Commission to regulate all classes of public utilities, including those owned and operated by local governments, the tendency is for the Commission to gain more effective control of all public service regulation. This is also true in the United States, as the various state commissions have gradually absorbed powers previously granted to the local authorities.

With the passing of the experimental period in the history of regulation by commission in the Islands, there has come a greater recognition of the proper aims and real usefulness of the Public Service Commission. At present, this body has control and supervision over services, rates, accounting systems, transfer of certificates and other phases of activities of public service corporations.

RECENT CHANGES

Realizing the rapid growth of public utility regulation in the Islands, a permanent Committee on public service was created in the House of Representatives in 1930. Formerly, all legislation affecting the Public Service Commission was indorsed to the Committee on Revision of Laws. After several months of study and investigation, and in accordance with the recommendation of the Department of Justice Survey Board, a body composed of the Under-Secretary of Justice, the Solicitor General and a Judge of the Court of First Instance, which made investigation of the functions and activities of the Commission,

the Committee recommended to the legislature a measure reorganizing the Commission. This measure is now known as Act No. 3844. Some of the important provisions of this law are:

That all contested matters that may be presented before the Commission shall be heard and decided upon by the Commission in full or at least by the two Commissioners, but before any Commissioner is assigned to write the decision or any resolution which affects in some way the interest of the parties concerned, the matter shall be voted upon by the members of the Commission who have taken part in the discussion of the case.

A glance of the above provision shows that the Commission is again converted into a Collegiate Court because most of the cases coming before the Commission are contested matters. The said law permits the Commission to grant authority to any one of its members to make all the inquiries which the Commission is empowered to undertake. The question recently raised before the Supreme Court regarding this provision is whether or not by virtue of the authority granted, one Commissioner is authorized to conduct trials or hearings on contested matters. The Supreme Court, speaking thru Mr. Justice Butte, held in the case of *ORLANES & BANAAG TRANSPORTATION, INC., ET AL. vs. PUBLIC SERVICE COMMISSION, ET AL.* (R. G. No. 36731), that once an authority has been given to any Commissioner, his action in conducting or holding trials is a substantial compliance with the law. The cases of the Commission would be accumulated if the three Commissioners will always hold sessions jointly or in banc in all contested matters.

The Commissioners, however, have been conducting sessions or hearings jointly in important contested cases. As a matter of fact, every Wednesday has been set aside as a day specially for holding sessions in banc. This is certainly a decided improvement over the former practice.

Furthermore, the Secretary of Justice has been given the power to designate one or more Judges of the Courts of First Instance to fill temporarily vacancies in the Commission in order to perform the functions of the absent Commissioner or Commissioners. The said law also authorizes the Secretary of Justice to form a separate division of the Commission, composed of Judges of First Instance or Commissioners in cases where there are many pending applications before the Commission, and to hold hearings at such place or places as indicated by the Secre-

tary of Justice. The Judges of the Courts of First Instance who have been designated to act as Commissioners shall have the same powers, prerogatives, privileges and duties as the regular Commission, and the regularly appointed Commissioners.

It is hoped that the above reorganization act should be the last important amendment on the organic law (Act No. 3108) of the Commission for sometime. It is very unfortunate that the policy of the government towards the regulation of public utilities has not been consistent, stable and satisfactory. The principle of regulation by commission is inherently sound and practical. We have witnessed the menace to the national welfare of unregulated private control of necessities. If regulation of public services in the Islands is to succeed, it must be based upon fixed standards and principles so that the Public Service Commission may function as exponent of "a government of laws, not of men."

APPENDIX—A
STATISTICS SHOWING THE CAPITAL INVESTMENT IN VARIOUS CLASSES OF UTILITIES BY DIFFERENT NATIONALITIES

Nationality	Land Transportation	Electric Light Plants	Ice Plants	Telephone Companies	Total	% of all
AMERICAN	P44,780,998.18	P24,889,636.18	P 238,454.69	P5,072,145.29	P 74,981,233.34	40.49
FILIPINO	97,096,849.61	5,571,079.68	6,617,549.77	—	109,285,479.04	59.01
CHINESE	325,077.26	—	123,716.23	—	P184,266,712.38	—
SPANISH	123,026.90	—	—	—	448,793.49)	—
JAPANESE	154,318.73	—	—	—	123,026.90)	—
ALL OTHER	79,284.53	—	116,233.22	—	154,318.73)	—
	P142,559,555.21	P30,460,714.84	P7,095,953.91	P5,072,145.29	P185,188,369.25	100.00

NOTE:

- Under the Land Transportation column and under American Classification, the investment of the Philippine Railway Company amounting to P29,314,474.98 includes the amount of P9,118,581.69 advanced by the Philippine Government as of December 31, 1928, to meet the bond interest. Under the same column and classification, the investments of the Manila Electric Company in Railway and Bus service, amounting to P12,615,344.53, is also included. The investment of the Manila Railroad Company amounting to P90,816,564.62 is included under the Filipino Classification.
- Under the Electric Light Plants column, the American investment shown above, amounting to P24,889,636.18, includes the investment of the Manila Electric Company in Manila and outlying districts amounting to P22,771,482.71.
- The investment in telephone companies shown above amounting to P5,072,145.29 does not include investment in government-owned telephone system, these being included in the assets of the respective provinces operating them.
- Carriers by water are not included in this statistics, because the Commission's control over them is limited only to the fixing of their maximum rates.
- The capital investment above does not include other classes of utilities, such as waterworks and ferries which are owned and operated by the government, canals and other aerial and radio corporations.