Administrative Justice In The Philippines *

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NOT long ago President Franklin D. Roosevelt used the expression "horse and buggy stage" to describe antiquated processes, particularly judicial processes, which have become inadequate in the solution of problems, economic and social, that present day conditions have created. In our own country President Quezon also had his diatribe against archaic ways of judicial interpretation of laws, which have been enacted in response to demands of modern conditions, deploring the views of those whom he called "16th-century judges." Individuals of lesser renown and technical bodies have been impatient and critical with the so-called "laws' delays" which after all quite often refer less to the laws themselves than to the slow-moving and unsatisfactory conduct of courts in the settlement of claims between individuals or between the public and the individual. The high regard which the law profession as a whole harbors for time-honored precedents has in many cases arrested the adjustment of legal procedure to new conditions. In his preface to his book "The Spirit of the Common Law," Roscoe Pound, former dean of the Harvard Law School and an eminent jurist, stated this situation in this manner:

"The real danger to administration of justice according to law is in timid resistance to rational improvement and obstinate persistence in legal paths which have benous, urban, industrial America of today. Such things have been driving us fast to an administrative justice through boards and commissions with loosely defined powers, unlimited discretion and inadequate judicial restraints which is at variance with the genius of our legal and political institutions."

This was said years ago; and it was indeed a prophetic utterance, for today "industrial America" has at last practically yielded to "administrative justice." Since the first day President Roosevelt's term of office, administrative boards and commissions have been created so furiously fast, no doubt under the inspiration of such believers in administrative law as the present Justice Felix Frankfurter, that a writer has coined the term "Administocracy" and applied it to the Roosevelt system of reform through administrative law. It is true that the decision of the U. S. Supreme Court in the case of Schecter Poultry Corporation vs. U. S., otherwise known as the NRA case, somewhat momentarily checked the avalanche of administrative law, but the enthusiasm for it continued until the American Bar Association itself, which is a body of conservative lawyers, who piously worship tradition, had to acknowledge it as an inevitable condition and, therefore, decided to prepare a draft of an administrative law which was presented in

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come impossible in the heteroge- Congress about a year ago under the sponsorship of Senator Logan. They had to wake up if they did not want to see the trend toward "administrative justice" as pointed out by Dean Pound with "loosely defined powers, unlimited discretion, and inadequate judicial restraints," developed fully into a system that would upset the rule of law.

To American and English lawyers administrative justice conjures up in their minds the court of the Star Chamber with its arbitrary methods of procedure and its arrogant judges. It was something which at first conflicted with their idea of separation of powers under which only judges are authorized to exercise judicial powers, the executive being limited to the enforcement of law as interpreted by courts. They could not tolerate the thought of having an administrative officer or board act as a judge in the settlement of controversies affecting their personal or property rights. But in continental Europe administrative law and administrative justice have been part and parcel of the legal system. When the rights and claims of the individual conflict with those of the government or the public, their settlement is effected by a special body known as an administrative tribunal rather than by the ordinary courts. But the principle of "government of laws and not of men" so dear to the heart of Englishmen and Americans is diammetrically opposed to such a distinction. For under this principle three elements are indispensable: (1) that there be a law; (2) that no person may be deprived of personal or property rights except for a distinct breach of the law established in the ordinary courts of the land; (3) that every man, no matter how high his rank may be, is subject to the ordinary law of the state and amenable to the jurisdiction of the ordinary courts.

One might ask this question: Why should there be such any objection at all to administrative justice? Is not the basis of the objection purely formal in nature? To these questions, the reply may be gathered from a comparison of the ways the two bodies, the ordinary courts and administrative courts, work. First, an administrative tribunal is not bound by the procedural safeguards obtaining in the ordinary court, viz.: the common-law rules of evidence; and second, an administrative tribunal decides a case not according to the strict rules of law but by the application of governmental discretion and policy. This second distinction is of substantive significance. Administrative tribunals being part of the political department of the government cannot have that independence which courts traditionally enjoy. Their adjudications, moreover, are inescapably influenced by the political or social forces which act upon the government. What is socially expedient weighs heavily in administrative determinations even to the extent of jeopardizing the rights of the individual which may conflict with public interests. The courts, on the other hand, are traditionally the bulwark of individual rights against the tyranny of rulers who were once beyond the reach of popular control. However, their position in this respect has been greatly altered in democracies where the executive and the legislative officials are alike subject to popular control even to a greater extent and in a more direct way than the courts.

But modern conditions have made life extremely complex. Questions of an emphatically technical nature challenge the wisdom and ability of ordinary judges to settle them. Thus rate regulation of public utilities, questions of unfair competition, industrial disputes, and the like involve so many economic, social, and technical factors that only experts may fully understand them. And judges oftentimes do not belong to this class. Moreover, so many questions demand speedy solution which ordinary courts are not in a position to give on account of the slow and complicated rules of evidence and procedure which the legal profession conserves and cherishes. The answer to these new demands has been the creation of administrative tribunals intended to be manned by experts. However, the insistence that the rule of law, as traditionally understood, be preserved has resulted in the requirement that administrative adjudications be subjected to review by courts. It is this field of judicial review over administrative determinations that constitutes the province of modern administrative law under our system of jurisprudence.

In the Philippines administrative justice historically is not new. Spanish jurisprudence recognized it; but with the establishment of American sovereignty in this country administrative justice and law, as known under the Spanish system which was more or less identical with the system in vogue in continental Europe, conflicted with the American principles of constitutional law, particularly the doctrine of separation of powers, and so it had to be thrown into the discard. That was not, however, the end of administrative law in the Philippines. From the very beginning of the American administration the substance of administrative justice of the Anglo-American conception was recognized by our courts. In fact, administrative law was in effect constitutionally adopted in so far as the Philippines was concerned when the immigration and Chinese exclusion laws of Congress were extended to the Philippines; for to a territory of the United States the acts of Congress are given the same import and force as a constitution in a State. Thus the enforcement of the exclusion laws was from the very start intrusted to the Collector of Customs and the Board under him known as the Board of Special Inquiry.

Among the first cases decided by our Supreme Court (1 Phil. 93) was *In re Paterson*. The decision of that case was penned by Chief Justice Arellano, the great Filipino jurist, who immediately learned to adjust himself to the new system of law by upholding the legality of the authority of the Collector of Customs to determine questions of fact respecting the right of an alien to be deported from the Philippines. Quoting an opinion of the United States Supreme Court that when a statute "gives a discretionary power to an officer, to be exercised by him upon his own opinion of certain facts, he is made the sole and exclusive judge of the existence of those facts," Justice Arellano concluded that the Collector of Customs could not be obliged to show to any court of justice the specific reason for the exercise of his discretionary power to deport an alien as long as he did not proceed arbitrarily. That was the opening wedge of administrative justice into our legal system under the American rule. Of course, administrative adjudications were made even before that decision was

handed down but they concerned questions of ordinary police power which courts in England and in America had uniformly conceded to be within the province of the administrative official. For instance, when a health officer desires to place under quarantine persons living in a house where a contagious disease which may develop into an epidemic is discovered, he makes a decision affecting the liberty of an individual. Or when a sanitary officer decides to abate a nuisance in the form of decayed food sold in the market, he makes a decision affecting property interests.

But administrative justice in the Philippines, although not developing quite as rapidly as in the United States, has been consistently drawing into its sphere questions affecting more vital rights and substantial interests. Time does not allow us at present to follow minutely its progress in our system of law. At present, we shall content ourselves to merely pointing out its role in immigration cases, in public utility cases, and in auditing and labor cases.

In immigration cases, the Board of Special Inquiry and the Collector of Customs are statutory judges on questions as to whether a man seeking admission into the Philippines should be allowed to enter or not. The general rule laid down by our Supreme Court is that the ruling of these administrative officers on questions of fact are final unless they abuse their authority or exceed their jurisdiction. These defects are said to exist when a full and fair trial is not accorded to the applicant. In such case our Supreme Court said that the courts "do not hesitate to review the decision of such administrative officers." (*Bayani v. Collector of Customs, 37 Phil. 468.*) The Court explains the meaning of a full and fair trial by saying that "the essential thing in investigations like the present, (immigration case) as all other judicial or quasi-judicial proceedings, is that there shall have been an honest effort to arrive at the truth by methods sufficiently fair and reasonable to amount to due process of law." Thus statements made by the administrative board which tend to confuse and to frighten the witnesses before it are considered violative of the requirements of a fair trial inasmuch as such a spirit of hostility on the part of the board is not consistent with impartiality and fairness in the hearing. To secure a review of the Immigration Board's decision, the procedure is by an application for a writ of habeas corpus or certiorari rather than by an ordinary appeal. It has been held in decisions of the United States Supreme Court, particularly that of *U. S. v. Ju Toy* (198 U. S. 253), that inasmuch as the legislative department has full power under the Constitution to exclude aliens, a statute may commit the enforcement of its regulations on the subject exclusively to an administrative officer without judicial intervention. His decision in that case need not be reviewed by the courts for the observance of the constitutional requirement of due process of law. If an applicant alien claims to be a citizen and bases his right to enter on the claim of citizenship, the decision of the administrative officer on his citizenship is final upon the courts. This ruling seems to have been violated by our Supreme Court in the case of *Rafferty v. Judge of First Instance of Cebu* (7 Phil. 164). In that case a Chinese who sought entry

into the Philippines was denied entrance by the Collector of Cebu. During the pendency of the alien's appeal to the Insular Collector of Customs, a resident Chinese in Cebu filed a petition for adoption in the Court of First Instance of Cebu, and that court ordered the adoption of the immigrant. In the meantime, the application of the immigrant to remain in the Philippines was denied not simply by the Collector of Customs but also by the Department head. But the applicant asked for an order of injunction against the Collector of Customs; and the judge issued the writ prohibiting the Collector from deporting the applicant. In that way the Collector of Customs was deprived of the power given him by statute to determine the question of the citizenship of an alien seeking entrance into this country. Our Supreme Court recognized the right of the trial court to prevent the Collector of Customs to deport the alien. It should be remembered that the decision of the Collector of Customs denying entrance to the applicant was not set aside nor was it even attacked in the court through habeas corpus proceedings or any other proceedings in court. It may, therefore, be said that the Supreme Court tolerated a judicial usurpation of the authority of the administrative tribunal in that immigration case.

With respect to matters affectin public officers and the right of the government to subsistence, administrative adjudication seems to be given greater finality. A public office is a public trust. A person's right to a public office does not amount to a personal or a proprietary right entitled to the protection of the bill of rights. In the absence of any constitutional provision to the contrary, an administrative officer or board authorized by statute to determine whether or not a public officer should be suspended or removed from the public service is the final authority on the question. Thus it would be violative of the principle of separation of powers, in the absence of any constitutional provision, for a statute to allow an appeal to the courts from the decision of the administrative officer ordering the removal of a public officer from the service because, in the language of the Supreme Court of Illinois (*City of Aurora v. Schoberlein*, 230 Ill. 496), "an appeal is a step in a judicial proceeding, and in legal contemplation there can be no appeal where there has been no decision by a judicial tribunal." The court added that "the cases in which appeals from non-judicial bodies to courts have been recognized have involved individual or property rights of which the court had jurisdiction under some forms of procedure, and belong to classes of cases in which the court, acting judicially, could afford a remedy." In the case of the removal of a public officer, an appeal from an administrative body would result in the court's assuming and exercising executive powers, and as a result the courts would practically control the appointmnt and removal of public officials by the exercise of its judgment as to the fitness and qualifications of such officials. That would not be applying the rules of law or adjudicating rights but rather exercising executive privileges in violation of the doctrine of separation of powers. It does not mean, however, that the courts in quo warranto or certiorari proceedings cannot legally exercise jurisdiction affecting the claims of public officers. But in

these cases the courts do not review the decisions of inferior bodies or determine facts regarding the fitness of public officials; they merely pass judgment on the legal right of an official to an office or on the jurisdiction of a non-judicial body over the question of the removal of the public official.

With respect to the determination of questions affecting the right of the government to subsistence which involves matters of taxation, administrative determinations are given finality for obvious reasons, as long as notice and hearing are given to the tax-payer in proper cases. In other words, unless the validity or legality of a tax is assailed, not simply its correctness, the courts will follow the decision of the administrative tribunal and abide by its judgment. The same is true in the case of the valuation of imported merchandise made by customs officials for the imposition of customs duties. Unless there is abuse of authority, the courts consider as final and conclusive the decision of the administrative tribunal.

With respect to determinations by auditing officials, the Philippine law on the subject may be found in the Constitution of the Philippines. The rules therein laid down are a mere afirmation of the principles declared in the later decisions of our Supreme Court and of the Supreme Court of the United States, namely: That decisions of the Auditor General on claims against the government by private individuals are final and conclusive upon the government except when the office concerned appeals to the chief executive and to the President of the United States; but as to private entities the Auditor General's decision may be taken to any court of record in the manner provided by law. This is a recognition of the rule of law when the administrative decision affects private rights. Originally our Supreme Court in the case of *Lamb v. Phipps* (22 Phil. 456) gave almost absolute finality to the decisions of the Auditor in all cases; and if that rule had not been later revoked, we would have had an instance of administrative justice somewhat akin to that established in continental Europe.

It is quite difficult to classify the public service commission under our statutes. Its members have been variously termed commissioners and judges. But one thing is certain: Its functions are not technically judicial but administrative, for rate-making is primarily the prerogative of the legislative department and may be delegated by it, within certain limits, only to administrative and quasi-judicial bodies, never to courts. The court's intervention, however, is legally justified by the fact that rate-making may be so exercised as to deprive an individual, who is a public utility operator, of his property without just compensation.

But administrative justice in the Philippines will still be more greatly felt in business and industry through the agency of the newly created Court of Industrial Relations. The legal basis of this tribunal and its jurisdiction is to be found in our Constitution. In its article 13, section 6, the Constitution declares: "The State shall afford protection to labor, specially to working women and minors, and shall regulate the relations between landowner and tenant, and between labor and capital, in industry and in agriculture. The State may provide for compulsory arbitration." Without this con-

stitutional provision it is doubtful whether or not the National Assembly could have validly created this court with the authority that it has conferred upon it to determine wages of laborers, rentals of tenants, hours of labor, and other questions which involve the right of employers and employees to liberty of contract. For outside of public utility enterprises, the Supreme Court of the United States, in annulling the powers assumed by the Kansas Court of Industrial Relations, declared that any obligatory decision by the government upon the amount of wages that laborers should receive and employers should give is violative of the constitutional right to liberty guaranteed to every person.

The Court of Industrial Relations is given jurisdiction over industrial or agricultural disputes that may cause strikes arising from differences regarding wages, shares, hours of labor, or conditions of employment between employers and employees or tenants and landlords, provided that the number of employees involved exceeds thirty. Its decision is appealable to the Supreme Court in these cases. In this respect it is a judicial body, a part of the judicial department. But in another part of the law (section 5), it is provided that the President of the Philippines may direct the Court of Industrial Relations to investigate conditions in any industry or locality with a view to fixing for such industry or locality a minimum wage of the laborers or share of the tenants therein. The Court is enjoined in performing this work to take into consideration many factors, such as the capital invested, the number of laborers in the industry, insurance, transportation, market prices, gain or losses expected, cost of living, and other factors as may, *"in its opinion,"* be necessary to adequately accomplish the purpose of the investigation. The Court may then determine a minimum wage or share or a maximum rental; but this does not become final until and unless approved by the President of the Philippines. Obviously, this is not a judicial power, for it is not the Court that lays down the final rule but the President. This function is clearly administrative.

It would seem that our Court of Industrial Relations is in fact partly a judicial body and partly an administrative tribunal. The question arises: May such a body be constitutionally given by statute that dual capacity or double personality? It would seem that the answer needs a thorough study. It has been uniformly declared by our Supreme Court and American courts that judicial bodies may not be intrusted with non-judicial functions. If the Court of Industrial Relations is to be considered a judicial body, then its administrative powers must perforce be given up.

Before we close this random comments on administrative justice, let us consider one more class of claims which should perhaps be better intrusted to an administrative tribunal rather than to the courts. It is that class of litigaions growing out of the application of workmen's compensation law. Under our law such cases are placed under the jurisdiction of the courts. In the United States, on the other hand, they are decided by administrative tribunals. The slowness of court procedure and the fact that in many cases judges are not exactly informed and, therefore, not sufficiently apprecia-

tive, of the reasons behind the modern workmen's compensation law all work together to the defeat of the ultimate ends of the land and to the detriment of the interests of the laborer. For the purpose of clarifying this point, let us quote the statement of one of the outstanding circuit court judges of the United States whose name was once submitted by President Hoover to the Senate for appointment as justice of the United States Supreme Court, Judge Parker. Referring to the Federal Workmen's Compensation Law, which provides for the settlement of claims by an administrative officer, he said: "This system of compensation is based, not upon ancient fictions of the law, but upon the principles of industrial insurance in application of the theory that industrial accidents, whether due to the negligence of the worker or not, are a hazard of the business; and that they should be borne, not by the individual worker, but by the industry in which he is engaged. Chief among the benefits of the act is that it eliminates the delay and expense incident to litigation; but this benefit would be largely if not entirely lost, if, upon application for injunction, the court should be under the necessity of hearing *de novo* the claim for compensation or of weighing the evidence and passing upon the facts. If such were the law, the courts would be appealed to in practically every contested case, counsel would be as necessary as formerly, and the provision for hearing before the Deputy Commissioner, instead of eliminating the delay of litigation, would increase it. This certainly was not the intention of Congress."

The growth of administrative law and justice in the Philippines has not followed at all any consistent plan scientifically worked out by our legislative authority. Compared with its development in the United States, the progress of administrative law in the Philippines is slow and has been deficient of intelligent guidance. While we do not advocate a wholesale transfer of powers from our courts to administrative tribunals, the economic and social progress of the country which has given rise to new questions demanding prompt and efficient methods of solution calls for the establishment of administrative tribunals capable of handling controversies that demand technical skill and summary action for their settlement. They should be given as much authority over questions of fact as the necessities of each class of cases require. Otherwise their establishment will not be an improvement at all over the ordinary processes in the courts of law.