LABOR-MANAGEMENT LEGISLATION IN THE PHILIPPINES

By

GONZALO W. GONZALEZ

THE BACKGROUND

THE revolt of former subject peoples of the Orient against the centuries-old structures of colonial imperialism and the recent play of world power politics in that region have brought into sharp focus the economic and social problems of Southeast Asia. On the successful solution of these problems in Asia, no less than in Europe, rests the future of world peace. Any study of the area necessarily includes an investigation of existing socio-economic conditions in the Philippines, since that young Republic, formerly a territory of the United States, is looked to by other peoples with interest and is perforce destined to play an important role in the industrial development and modernization of Southeast Asia.[1] The present study presents one phase of a small, albeit important, part of the whole picture—Philippine labor conditions. The labor movement in the Philippines, still in its infancy when judged according to Western standards, has progressed much farther than that of other Asiatic countries.[2] Its progress exhibits a trend and a pattern that may serve as a fair indication of what will take place among the people of former eastern colonial empires and the newly-awakened working class of Japan and China.[3] It is the purpose of this brief work par-

---

[1] For a general background on the Philippines and essential to any study of its social and economic conditions see: W. C. Forbes, *The Philippine Islands* (1928); Kirk, *Philippine Independence* (1935); Malcolm, *The Commonwealth of the Philippines* (1936); Osias, *The Filipino Way of Life* (1940); Hayden, *The Philippines, A Study in National Development* (1942); Bernstein, *The Philippine Story* (1947); American Institute of Pacific Relations, *The Development of Self-Rule and Independence in Burma, Malaya and the Philippines* (1948). On Philippine economic affairs particularly see U.S. Foreign Service, *Monthly Trade Review of the Philippine Islands;* Hibben, *Philippine Economic Development* (1945); *Report of the Joint Philippine-American Finance Commission*—1947; *Yearbook of Philippine Statistics* (1946); *American Chamber of Commerce Journal.*

[2] "Compared with labor conditions in most of Southeast Asia, those in the Philippines are already far advanced on the road to modernization." Bruno Lasker, foreword to *Labor in the Philippine Economy* at vi. For recent studies of Philippine Labor Conditions see Kurihara, *Labor in the Philippine Economy,* a study for the American Council, Institute of Pacific Relations (1945); Avelino, *Labor and the Commonwealth* (1941).

[3] This has been allud d to by a number of authors, among them Mitchell, *Industrialization of the Western Pacific* (1942); Aure Smith, *Our Future in Asia* (1940).

ticularly, to make a survey of basic labor legislation and the role of government in the settlement of labor-management disputes in the Philippines.

The present discussion would presumably be of interest to organized labor in the United States, which, although formerly too preoccupied with its own problems, has developed sufficiently as to concern itself with labor conditions in the Philippines and in other countries of the Far East, as the threatened competition of cheap and underpaid labor in these regions, already on the way to industrialization, will naturally affect wage scales in the United States. Labor, in its struggles against capital, has reasons other than proselyting zeal and altruistic sentiments of a community of interests to seek progress for labor everywhere.[4]

Organized labor in the United States raised no protest against the exploitation of Asiatic labor when it provided commodities for the laborer's direct consumption. The American workingman was happy to buy coconut-oil margarine and cane sugar at low prices. It was only when Asiatic labor engaged in the production of manufactured commodities with modern machinery and under sweatshop wage standards that American labor took measures to protect itself, and well might it have done so.[5] The people of the Far East, for the most part under an agricultural economy will, with the more rapid increase of technological improvements and means of production constitute a serious threat to Western labor standards, unless steps are taken to raise labor standards in the Far East. The problem becomes more difficult in the case of countries that have attained political independence, as interference with their internal affairs and the policies of their governments may meet with understandable opposition.[6]

The settlement of industrial disputes and labor legislation in the Philippines are subjects that would also concern capital in the United States, which in many cases, is not getting what it deems sufficient returns on present investments at home. The Philippine government has launched itself on a program of attracting foreign venture—capital, with a view towards the development of its natural resources.[7] By a treaty concluded with the United States which

---

[4] As illustrated in *Alco-Zander vs. Amalgamated Clothing Workers of America*, 35 F. (2d) 203. It may also be noted that labor in Hawaii has been well-organized by leaders from the West Coast.

[5] Lasker, op. cit. supra note 2, at vi.

[6] Id., at viii.This depends, of course, on how much political independence the particular 'independent' really has.

[7] Invaluable information for any large scale investor in the Philippines may be found in the "Proposed Program for Industrial Rehabilitation and Development of the Republic of the Philippines" a comprehensive blueprint containing necessary data and statistics, by the Technical Staff of the National Development Co. under the supervision of the H. E. Beyster Corp. consulting engineers, Detroit, Michigan (1947).

necessitated an amendment of the Philippine Constitution, American citizens and corporations have been granted equal rights to Philippine natural resources for a period of twenty-eight years.[8] Capital, however, has not quite gotten over a congenital timidity, especially when it contemplates organized labor and political movements in foreign countries, and the queries raised by American capital with reference to basic labor legislation, the settlement of labor disputes and sundry other matters indicative of what has been called 'cussed conservatism' may not be entirely abnormal nor irrelevant.

American capital engaged in production at home, together with British, Canadian and Swedish capital, has to look to the Orient from still another viewpoint—as potential areas for the expansion of world markets. In this sense, therefore, these manufacturing nations would be interested in the raising of wage standards and the progress of organized labor in Southeast Asia, which factors would tend to increase purchasing power.[9]

THE CONSTITUTION

It is not the purpose nor is it within the scope of the present article to deal with the Philippine Constitution. Any discussion, however, of labor legislation necessitates at least a glance at the fundamental law. A perusal of any democratic constitution would serve to indicate, more or less accurately, the limits of future legislation. The Philippine Constitution, provided for in the Philippine Independence Act and adopted with the blessings of the United States government has been called fascistic,[10] socialistic [11] and even

[8] Section 341 of the Philippine Trade Act of 1946 (U.S. Congress) provides: "The disposition, exploitation, development and utilization of all agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces and sources of potential energy, and other natural resources of the Philippines, and the operation of public utilities, *shall, if open to any person, be open to citizens of the United States and to all forms of business enterprise owned or controlled, directly or indirectly by United States citizens.*" The Executive Agreement to carry out the terms of the Act was subsequently signed in Manila on July 4, 1946, with the approval of the Philippine Congress, was proclaimed by U.S. President on December 17, 1946, by the President of the Philippines on January 1, 1947, and the trade agreement between the two countries in force until 1974 became effective as of January 2, 1947.

[9] Lasker, op. cit. supra note 2 at vii.

[10] "The defense of the State is a prime duty of government, and in the fulfillment of this duty all citizens may be required by law to render personal military or civil service." Article II (Declaration of Principles) Sec. 2 of the Philippine Constitution. In rendering all citizens liable to personal civil service for defense, as so defined in the Constitutional Convention, the Filipinos drew their inspiration from the European totalitarian states, particularly Soviet Russia, Nazi Germany and Bulgaria. The committee which drafted this forced labor provision realized that it "shocks many people," but declared that it "had no intention or desire to implant obligatory gratuitous labor in this country," its purpose being "to vest the Legislature with a clean and indisputable power not susceptible to interpretation that may give rise to legal controversies." See Hayden, *The Philippines, A study in National Development* at 46.

[11] "In the very draft of this constitution that we are consider-

democratic,[12] and as evidenced by these characterizations it probably is as nearly ideal a cornerstone as any for a republican form of government. A constitution must be suited to prevailing conditions and institutions in a particular country, and to the temperament and aspirations of the people that have adopted it. In this sense the Philippine Constitution fills the bill.[13] Unlike the American Constitution, it was drafted in recent years, and in vesting the government with great powers over the economic life of the country it "echoes the credo of Rooseveltian rather than Jeffersonian democracy." [14]. The Philippine Constitution has very definite provisions on labor.

In its "Declaration of Principles" the Philippine Constitution states the following: "The promotion of Social Justice [15] to insure the well-being and economic security of all the people should be the

provisions pertaining to social justice and of socialistic tendencies. For instance, we find limitations upon private ownership of agricultural land; we nationalize or socialize railroads, telegraphs and other means of communications . . . ; we nationalize our resources; we make it the duty of the State to safeguard social progress of the inhabitants; we require the state, in the interest of social justice to afford the necessary protection to labor . . . ; more than that, to gain economic and social fortitude we provide in this draft for delegation of legislative authority to the President in connection with the fixing of tariff rates, tonnage and wharfage dues . . and the promulgation of rules and regulations to carry out a declared national policy in cases of emergency. And yet, our proposed Bill of Rights, I dare say, may be made to adapt itself to these perchance 'revolutionary' provisions through proper interpretation and application of the reserved 'police power' of the State." Speech delivered by Constitutional delegate Jose P. Laurel before the Constitutional Convention, November 19, 1934, as Chairman of the Committee on the Bill of Rights.

[12] A recognized authority on the Philippines makes this caveat, however: "Whatever institutions the Filipinos produce will not be mere replicas of those which have appeared in either the totalitarian or the democratic states. They will be native and not foreign institutions, just as those which have developed in the Islands during the past four decades are Filipino and not American. The word 'totalitarian,' therefore, is used in a suggestive rather than a descriptive sense, and with the caution that anyone who simply applies to the Philippines whatever political and economic forms Italian, German, or Russian totalitarianism symbolize for him will be very far from having an accurate picture of anything which exists in this Malayan country. Likewise, it is reiterated, whatever measure of 'democracy' may exist in the Philippines need not be expected to conform in all respects to the particular democratic pattern with which Americans are most familiar." Hayden, *The Philippines, A study in National Development* at 45.

[13] "If, however, our own precedent and our foreign models have been of great aid to use in the formulation of principles . . . this precent and these models have nevertheless not prevented us from bringing to our work certain novelties, in rhythmic consonance with our own concepts and theories, the counsels of our own experience, and the special character of the problems confronting our people which demand immediate and practical solution." Valedictory Address of Hon. Claro Recto, President of the Constitutional Convention, upon the occasion of the closing session of the convention, February 8, 1945.

[14] Hayden, op. cit. supra note 2 at 42.

[15] A catchy phrase, but "social justice" is about as susceptible of accurate definition as the term "due process." Witness the following: "The idea of social justice in the Constitution was developed in the course of the debates to mean justice to the common tao, the 'little man' so called. It means justice to him, his wife, and children in relation to their employers in the factories, in the

concern of the state." [16] The principal reason for this provision was that many of the leaders felt that unless the lot of the masses were improved by the government, the people of this new state, formerly unified by a unanimous cry for independence, would be seriously or even disastrously divided on social and economic questions. Under this policy as expressed in the Declaration of Principles, the Philippine government is directly empowered to limit property rights for the general welfare,[17] to expropriate lands to be divided into small lots and conveyed at cost to individuals,[18] to enter the field of business and to transfer private property to government ownership in the interests of national welfare and defense.[19]

All of the above stated constitutional provisions would give rise to the justified comment from those familiar with the constitution of the United States, that undue power in practically all spheres of economic activity has been granted the government by the Philippine Constitution. The fact that the Philippine Constitution has a due process clause embodied in a more detailed bill of rights than the American Constitution may furnish some reassurance. Such provisions as have been cited above were rendered necessary due to the present social structure of the country, where social development and progress have lagged far behind political development. It was the idea of the framers of the constitution to diminish this gap by sweeping reforms on the part of the government, in other words, to lift the lower classes to higher levels

---

farms, in the mines and in other employments. It means justice to him in the education of his children in the schools, in his dealings with the different offices of the government, including the courts of justice. In other words, it means justice to him in his relations with the more fortunate classes of the people." (Constitutional Delegate Aruego, *The Framing of the Philippine Constitution* at 147.) " . . . Social Justice is 'neither communism, nor despotism, nor atomism, nor anarchy,' but the humanization of laws and the equalization of social and economic forces by the State so that justice in its rational and objectively seculiar conception may at least be approximated. Social justice means the promotion of the welfare of all the people, the adoption by the government of measures calculated to insure economic stability of all the competent elements of society through the maintenance of a proper economic and social equilibrium in the interrelations of the members of the community, constitutionally, through the adoption of measures legally justifiable, or extra-constitutionally, through the exercise of powers underlying the existence of all governments on the time-honored principle of *salus populi est suprema lex* . . . Social justice, therefore, must be founded on the recognition of the necessity of interdependence among divers and diverse units of a society and of the protection what should be equally and evenly extended to all groups as a combined force in our social and economic life, consistent with the fundamental and paramount objective of the state of promoting the health, comfort and quiet of all persons, and of bringing about 'the greatest good to the greatest number.'" (*Calalang v. Williams*, 40 Official Gazette, [Supreme Court], 9th Suppl. at 239.)

[16] Article II (Declaration of Principles) Section 5.

[17] Article XII (Conservation and Utilization of Natural Resources) Section 3.

[18] *Id.*, Section 4.

[19] *Id.*, Section 6.

of social development by gradual governmental action. That this is necessary under existing conditions is easily demonstrable.

There is no such thing as a substantial middle class in the Philippines.[20] Between the ruling class that controls the country politically and economically and the laborers and peasants that furnish the manpower, there exists a wide and potentially dangerous void. The country is still ruled by an oligarchy, composed of the "gente ilustrada" that at the very most comprises 10% of the total population. Since there is no Filipino middle class, middle class functions such as retailing and acting as middlemen between exporters and small producers are to a large extent performed by aliens, mostly Chinese.[21] The great gap existing between the 10% of the population at the top and the 90% at the bottom has often been alluded to as one of the most significant and prevalent of the differences between the East and the West. The situation in the Philippines is a result of three centuries of Spanish domination under which feudal-colonial system most of the land, then as now the principal source of wealth, was owned by the church,[22] Spanish citizens and recipients of royal land grants. While the ownership of large tracts of land may have transferred from one hand to another, the common peasant, lacking in education and living in penury, had no chance to better his lot. Forty years of American rule and training in self-government gave the Philippines the forms of political democracy, without the substance of social and economic progress.[23] Recent figures on the ownership of land demonstrate that less than 40% of the 3,143,686 Filipino families constituting the entire population own both house and land.[24] The development

[20] Kirk, *Philippine Independence* (1935) at 179; see also Hayden, *The Philippines, A study in National Development* (1942) at 22.

[21] In 1930, for example, the Chinese had 70% of the domestic trade, and their share had been known to reach 80%. See Malcolm, op. cit. supra note 1 at 249.

[22] "As late as 1898 the Recollects, Dominicans and Augustinians (Spanish religious orders) were reported as owning 420,000 acres, including some of the best land in the Philippines. It was partly to alter this that the revolution of 1896 was directed. Yet the Dominican friars still owned the Buenavista estate of 27,400 hectares when in 1939 the government leased it for a co-operative experiment." Kurihara, op. cit. supra note 2 at 8; Garces, *The Agrarian Convicts in Bulacan*, (1937).

[23] As picturesquely if not eloquently stated by President Manuel L. Quezon in a speech to the National Assembly on October 1938: "Has the progress then made by the Philippines benefited our poorer population? The poor still has to drink the same polluted water that his ancestors drank for ages. His children cannot all go to school, or if they do, they cannot even finish the whole primary instruction for one reason or another . . As he works from sunrise to sundown, his employer gets richer while he remains poor. He is the easy prey of the heartless usurer because usury is still rampant everywhere despite legislative enactments intended to suppress it. That is, concisely speaking, the lot of the common man in our midst, after America's long endeavor to give to all fair opportunity in the pursuit of happiness and the enjoyment of life."

[24] *Philippine Land Tenureship*, American Chamber of Commerce Journal, October 1940. The article presents two tables, namely "Philippine Families

of industry and trade and the country's mineral resources did not bring social equality as these interests were owned by foreign or already established local capital.[25]

The fact that Philippine labor had not been given its due was admitted by President Quezon of the Philippine Commonwealth who early in 1938, probably under the inspiration of Roosevelt's New Deal and the progressive policies of then President Cardenas of Mexico, launched his "social justice" program which resulted in an Eight-hour Labor Law, a National Social Security Administration for the unemployed, an Agricultural and Industrial Bank to facilitate loans to farmers and merchants with small capital, a National Land Resettlement Project Administration to aid the landless and other similar agencies. President Quezon also made the following statement with reference to the importance of property rights as opposed to human rights: "The right of property in my opinion is essential only as a supplement to the right to live, and therefore is only secondary to that greater and more important right . . . I do believe in recognizing human rights in preference to property rights when there is a conflict . . . But when people accumulate wealth at the expense of the comforts of the rest of the population, I do not believe in that." [26] On another occasion the President went so far as to say that the words "do justice to every man" in his oath of office as set forth in the constitution meant that he as Chief Executive had the responsibility, even to the point of criticizing the judiciary, of seeing that social justice was done to every man. This view was expressed by him in the celebrated Cuevo-Barredo case.[27]

In that case, a Manila Court of First Instance decided that the heirs of an employee who was drowned while obeying the order of

---

Classified According to Ownership of House and Land" and "Distribution of Real Property Declared for Taxation in the Philippines, Dec. 31, 1938."

[25] As an example, it may be pointed out that less than 1% of Pampanga's (one of the sugar producing provinces) population own that province's 120,715 hectares of agricultural land; and only 12.5% of its 23,628 farmers own all the land they cultivate. See Census of the Philippines, (1939) Vol. III at 1396. At present writing this ownership is more of a de jure than a de facto state of affairs as peace and order, precarious since the Japanese occupation has not been fully restored and the problem posed by the Hukbalahap (see note 35 infra) movement which has held control of large sections of the province, in defiance of the government has not been fully nor definitively solved. Understandably, figures on present *effective* ownership are unavailable.

[26] Annual message of the President of the Philippines to the National Assembly, 1938 as reported in the Manila Daily Bulletin, Feb. 15, 1938. A year later, however, President Quezon stated, "Indeed it is my inescapable duty to protect property rights, and I shall use all the powers of the government in the discharge of this duty." Strikes, picketing and other trespasses provoked government action. See Kurihara, op. cit. supra note 2 at 28. Needless to say, Mr. Quezon consequently had the support of both capital and labor.

[27] 37 Official Gazette No. 88.

his foreman to jump into the river to retrieve a piece of company lumber, had no claim to legal compensation.[28] While the case was *sub judice* before the Philippine Supreme Court, the President in the course of a press conference branded the decision as unjust. This action of the President drew severe criticism from many quarters not only in the Philippines but in the United States, and he was accused of interfering with the judiciary, of violating the principle of separation of powers and of dictatorial tendencies. Mr. Quezon, however, stated that when he attacked the decision he was not aware of the fact that it was *sub judice*, otherwise he would not have commented on the case. In justification of his action he made certain statements that shed light on what he considered his official duty to the common man, and what may very possibly constitute a precedent for future Filipino chief executives:

> "The words 'do justice to every man' which are found in my oath do not, of course, mean that the President of the Philippines has been vested with any judicial power to adjudicate cases between the government and its citizens, or between the citizens themselves . . . But the words 'do justice to every man' mean that the Chief Executive must always be alert and vigilant, so that justice may reign supreme over this land. . . . For, even assuming that, under the theory of separation of powers and the postulate of judicial independence, the Chief Executive may in no case utter a word in connection with the acts of the other branches of the government, I would still interpret my oath to 'do justice to every man' as imposing upon me not only the duty not only to do justice in cases where the decision rests with the Executive, but also to see that the other branches of the Government do not commit acts of injustice to any man. . . . The Constitution of the Philippines imposes upon this Government the inescapable duty of promoting social justice. As the head of this government, it is my duty to exert my influence to secure the cooperation of every branch of the government to redeem our pledges and, above all, to carry into effect the mandate of the Constitution. Were I to keep silent in the face of what I consider a disregard of rights vouchsafed by the Constitution and the laws, not only would I be recreant to my duty but also the people would lose faith in their government. This must not, and shall not happen, if I can prevent it." [29]

The social and economic inequalities already described necessarily gave rise at the Constitutional Convention to many proposals

---

[28] Under the Employers Liability Statutes, Acts Nos. 1874 and 2473.

[29] To the above related incident we have the following comment: "In the Philippines and elsewhere in the Orient there is an ancient feeling that one of the prime functions of the political chieftain is to see to it that justice is done among his people . . . It is safe to say that when President Quezon loosed a blast of indignation at the crass injustice of the Cuevo-Barredo decision he acted as the overwhelming majority of his people would have had their national leader act . . . The President's emotion and his response to it were one hundred per cent Filipino. The Filipino people approved of his action for this reason and not because it could be constitutionally justified by reference to the presidential oath of office." Hayden, op. cit. supra note 1 at 74.

on labor. The committee on labor and social welfare of the Constitutional Convention recommended for incorporation in the first draft of the constitution provisions guaranteeing laborers freedom of association, prohibiting all degrading labor and any work involving serious danger to the health of laborers, and for government regulation of working hours, labor of minors and women and maternity leave, accident, sickness and unemployment insurance, employers' bonus systems, labor migration and labor nationalization. The setlement of strikes, lockouts and other conflicts between labor and capital through compulsory arbitration was also proposed.[30] Obviously, all the above provisions were too numerous and too detailed for inclusion as part of the fundamental law. Their enumeration, however, is indicative of the spirit and opinions of the members of the convention.[31] The labor provisions of the constitution as finally approved by the Convention with the adoption of the constitution read as follows:

> "The State shall afford protection to labor, especially to working women and minors, and shall regulate the relations between landowners and tenant, and between labor and capital in industry and in agriculture. The State may provide for compulsory arbitration." [32]

The above provision of the constitution is necessarily the basis for all statutes subsequently passed by the National Assembly and the Congress of the Philippines pertinent to labor and employment, and particularly for the laws providing for collective bargaining rights, government recognition of legitimate labor organizations, labor-management relations and the settlement of labor-management disputes through compulsory arbitration.[33]

In the course of this discussion of specific Philippine legislation and statutes, and the trend of judicial decisions in the field of labor-management relations, frequent comparisons will be drawn between the provisions of the law as it exists in the Philippines and

---

[30] This particular proposal evoked prolonged discussion on the floor of the convention, especially when the original draft read, "The State may also regulate strikes, lockouts and any other conflict between labor and capital by means of compulsory arbitration," which was opposed by Delegate Manuel A. Roxas (subsequently President of the Republic) on the ground that the regulation of strikes would deprive labor of one of its most effective weapons. As finally adopted, the provision on the regulation of strikes reads: "The state may provide for compulsory arbitration." Note the use of the permissive "may". Aruego, op. cit. supra note 31 at 653; see also Sinco, *Philippine Government and Political Law* (1939) at 336.

[31] A good account of the deliberations of the committee on Labor and Social Welfare of the Philippine Constitutional Convention is given in Aruego, *The Framing of the Philippine Constitution* (1936).

[32] Art. XIII (General Provisions) Section 6.

[33] A ready reference for Philippine labor legislation and pertinent leading cases would be Carlos and Fernando, *Labor, Industrial and Tenancy Laws* (1947).

the provisions of the Labor-Management Relations Act, 1947. This has been deemed advisable in order that those familiar with the Taft-Hartley Act will more readily understand Philippine Labor statutes and their interpretation, and more important still, because Philippine courts have looked to the decisions of the United States Supreme Court and the National Labor Relations Board for persuasive precedents in cases where particular provisions in both countries have been similar,[34] despite the fact that governmental policies behind their respective labor statutes and the broad means of implementing them have more or less differed.

THE STATUTES

Due to the activities of certain radical organizations in the Philippines, some of which were led by local communists [35] and by agitators who were supported by one or more Japanese secret societies and organizations,[36] the government deemed it necessary to

[34] By way of illustration, witness the following from decisions of the Philippine Supreme Court: "These two provisions (Section 21, Commonwealth Act 103; Section 5, Commonwealth Act 213) were, however, patterned after the Wagner Act, and the Supreme Court of the United States in the case of *National Labor Relations Board v. Jones and Laughlin Steel Corpn.* 301 U.S. 1, said . . ." *Pampanga Bus Co. vs. Pambusco Employees Union*, 38 Official Gazette 984.

"In the United States labor legislation has undergone a long process of development too long to narrate here, culminating in the enactments of what were commonly known as the Clayton Act, the Norris La Guardia Act, and finally the Wagner Act and the Fair Labor Standards Act of 1938 . Scrutiny of legislation in that country and of pronouncements made by its Supreme Court reveals a continuous renovation and change made necessary by the impact of changing needs and economic pressure brought about by the irresistible momentum of new social and economic forces developed there. In the light of changes that have occurred, it is doubted if the pronouncements made by the said Supreme Court in 1905 or in 1908—cases which are relied upon by the petitioner in its printed memorandum—still retain their virtuality at the present time. In the Philippines, social legislation has had a similar development, although of course to a much smaller degree and of different adaptation giving rise to several attempts at meeting and solving our peculiar social and economic problems." *Antamok Goldfieds v. Court of Industrial Relations*, 40 Official Gazette, 8th Supprement, 176. See also note 44 *infra*.

[35] *People v. Evangelista* et al. 57 Phil. Rep. 354; *People v. Capadocia* 57 Phil. Rep. 364; *People v. Evangelista* et al. 57 Phil. Rep. 375. More recently, or during the Japanese occupation another radical organization took root in the sugar producing province of Pampanga and quickly spread to other provinces of Luzon. Originally a guerrilla unit against the Japanese army of occupation, the Hukbalahap forces became a peasant movement. The movement, after the government's rapproachment policy had failed, was officially outlawed by the government in early 1948. Subsequently, by a proclamaton issued in June 1948. amnesty was promised the Hukbalahaps if they would register their firearms by July 15, 1948. ("Time," July 5, 1948) The period of registration has been extended, but up to present writing the Hukbalahaps have not complied with the agreed amnesty requirements. (New York Times, July 27, 1948.) For a brief account of the movement see Bernstein, op. cit. supra note 1. For details, see Official Report of the Villareal committee on subversive activities, as submitted to the House of Representatives, May 22, 1947.

[36] Reference is here made to the 'Sakdal' movement's uprising against the Government staged at Cabuyao, Laguna province on May 2-3, 1935, which re-

define the term "legitimate labor organization." By the provisions of Commonwealth Act 213 a legitimate labor organization was said to be "an organization, association or union of laborers duly registered and permitted to operate by the Department of Labor and governed by a constitution and by-laws not repugnant to or inconsistent with the laws of the Philippines." [37] Under this law a labor organization seeking registration is required to file an application with the Department of Labor accompanied by a copy of its constitution and by-laws and is required furthermore, after the permit recognizing it as a legitimate labor organization has been issued, to keep a book and record of its membership and the minutes of its meeting, submitting an annual report on its activities, the first of such reports to be filed within thirty days after the anniversary of the date when permission to operate had been granted.[38] The Secretary of Labor, upon receipt of the application for registration, conducts an investigation of the activities of the applicant prior to issuing a permit, and is empowered to inquire from time to time into the activities of the organization subsequent to its registration. The permit issued by the Secretary of Labor, when satisfied that the purposes and activities of the organization are legitimate, is valid for a period of two years.[39]

UNION RECOGNITION AND COLLECTIVE BARGAINING

Such an organization, upon registration, would have the right "to collective bargaining with employers for the purpose of seeking better working and living conditions, fair wages and shorter working hours for laborers, and in general, to promote the material, social and moral well-being of their members." [40] An unregistered labor organization has no right to bargain collectively and an em-

---

sulted in the death of 59 misled peasants. Printed propaganda from Japan was discovered among the dissidents, and their leader evaded arrest by fleeing to Japan. The revolt was caused by dissatisfaction with the Commonwealth Government and with the independence promises of the United States, and only remotely by economic factors. For a detailed account see Report on the Sakdal Party prepared by the Chief of Staff, Philippine Constabulary for the Department of the Interior, Manila (1935).

[37] Section 1, Commonwealth Act 213.

[38] Sections 3 & 4 Commonwealth Act 213.

[39] Section 3 id. supra. Compare this provision with Section 9 (h) of the Labor Management Relations Act, 1947, requiring the filing of affidavits by a labor organization executed by an officer of such labor organization and the officers of any national or international labor organization of which it is an affiliate or constituent that he is not a member of the Communist party or affiliated with such party, and that he does not believe in, and is not a member of or supports any organization that believes in or teaches, the overthrow of the U.S. Government by force or by any illegal or unconstitutional methods and Section 11 of the same act with reference to the investigatory powers of the National Labor Relations Board.

[40] Section 2, idem supra.

ployer may and does refuse to enter into negotiations with such an organization and its leaders. An unregistered organization, furthermore, has no juridical personality before the Court, and therefore cannot bring a suit in its name. The foregoing provision is similar to Section 7 of the Labor-Management Relations Act 1947, which sets forth the rights of employees to self-organization and collective bargaining. The difference, however, is that the right of employees in the Philippines to refrain from concerted labor activities is not specifically guaranteed by statute. They can, however, resist union activity by bringing their case to the Court of Industrial Relations, provided they have fulfilled the jurisdictional pre-requisites provided by law for said court.

The employer's refusal to bargain collectively, termed an unfair labor practice under the Labor-Management Relations Act [41] may be enforced by any legitimate labor organization through a petition to the Court of Industrial Relations. Unlike the provisions on collective bargaining in the Labor-Management Relations Act,[42] the term 'collective bargaining' was not specifically defined by Commonwealth Act 213 nor was any statement made, as in the Taft-Hartley Act, to the effect that collective bargaining does not compel either labor or management to agree to a proposal or make a concession. The scope of the term 'collective bargaining' was subsequently delimited by the Philippine Supreme Court in a case involving an order issued by the Court of Industrial Relations directing the management, there being no previous agreement between the parties, to give members of a particular union preference to available employment, on the ground that the union, having been duly registered as a legitimate labor organization, had the right of collective bargaining.[43] The Philippine Supreme Court, in invalidating the order and reversing the decision of the Court of Industrial Relations, stated:

> "The term collective bargaining denotes, in common usage, as well as in legal terminology, negotiations looking toward a collective agreement. This provision in granting to labor unions merely the right of collective bargaining impliedly recognizes the employer's liberty to enter or not into collective agreements with them. Indeed, we know of no provision of the law compelling such agreements."

Quoting a well-known United States Supreme Court case, it went on to say: "Whatever may be the advantages of collective bargaining, it is not bargaining at all in any just sense unless it is voluntary on both sides."[44]

---

[41] Section 8 (a) (5), *Labor-Management Relations Act*, 1947.

[42] Section 8 (d), idem supra.

[43] *Pampanga Bus Co. vs. Pambusco Employees Union*, 38 Official Gazette 984.

[44] *Hitchman Coal Co. vs. Mitchell*, 245 U.S. 229. The same principle was

EMPLOYEE REPRESENTATION.

According to statute, the authority and discretion of the Department of Labor with respect to union organization is limited to passing on the legitimacy of labor organizations, since "no labor organization shall be denied registration and permission to operate except such whose object is to undermine and destroy the constituted government." [45] Questions involving exclusive employee representation as provided for in the United States (Section 9[a], Labor-Management Relations Act) or appropriate units for collective bargaining would, therefore, seem to be within the general jurisdiction of the Court of Industrial Relations.[46] In actual practice, however, the Department of Labor has exercised a blanket authority and practically unlimited discretion over all phases of union organization whether having to do with exclusive representation or the appropriateness of bargaining units, under its general powers as set forth in the statute creating said department [47] granting it jurisdiction "over all matters related to the welfare of Filipino laborers in this country and abroad." The Department has recognized any number of unions in one plant as having the right of collective bargaining with a particular employer on behalf of their members, with those unions claiming the very same persons as members; the Department has refused a union recognition on the ground that another union in the same plant had previously been registered, said ground not being specifically and expressly supported by any particular provision of law; at times the registration of a particular union is unduly delayed, thus depriving it of collective bargaining rights, on the ground that certain members of the union, or certain organizational affiliates of the union concerned are subversive or seek the overthrow of the government, thus necessitating a long drawn out investigation. As in the United States, the terms "subversive elements," "communists" or "reds" have not been too accurately defined.

The Department of Labor maintains a "Conciliation Service" for the purpose of seeking to induce the parties to labor disputes to seek means of settling their differences other than by strikes or lockouts. By administrative regulations, employees, before staging a strike, are required to serve notice on the Department of Labor, which then attempted to bring the parties together in order to iron out their difficulties. Upon the Department's failure to conciliate the parties, it generally refers the case to the Court of Industrial Relations for compulsory arbitration. Due to the fact that labor has

laid down by the United States Supreme Court in *Adair vs. U.S.*, 208 U.S. 161; *Coppage vs. Kansas*, 236 U.S. 1.

[45] Section 2, Commonwealth Act 213.

[46] Sections 1 & 4 Commonwealth Act 103.

[47] Act 4121, approved December 8, 1933.

not been too satisfied with the conciliation service of the Department of Labor,[48] and the fact that the regulation requiring them to serve notice prior to staging a strike has no effective sanction, strikes have often ensued without notice and have immediately been referred to the Court of Industrial Relations.

"UNFAIR LABOR PRACTICES" UNDER PHILIPPINE STATUTES

As already stated, the right of employees to refrain from all concerted labor activities except to the extent that such right may be affected by an agreement requiring membership as a condition of employment,[49] is not specifically guaranteed by any provision of the statutes in force. Presumably, if the number of employees who wish to refrain from concerted labor activities exceeds thirty, those laborers who do not see their way to being organized by a particular union may bring their complaint to the Court of Industrial Relations,[50] on the ground that their refusal to participate in concerted organizational activity would be likely to cause a strike. This recourse to the Court of Industrial Relations is more of a negative safeguard, however, and judging from the many instances of intimidation and house picketing that have occurred in Manila, it would be advantageous if the right were expressly protected by labor statutes.

The law [51] provides a penalty of fine or imprisonment on employers who may be found guilty of intimidating or coercing any employee with the intent of preventing said employee from joining any registered labor organization. This protection does not cover prospective members of unregistered labor organizations. The dismissal or threat to dismiss employees on account of having joined, or for being a member of any registered labor organization is also made punishable. Such acts on the part of employers, while not punishable in the United States, constitute an unfair labor practice under the Labor-Management Relations Act.[52] Management domination or interference with the formation or administration of labor organizations and the giving of financial support to them is not prohibited in the Philippines. Company dominated unions organized, sponsored and financed by employers are, therefore, commonplace. In spite of the express statutory provision [53] against the coercion or intimidation of employees by employers with the intent of preventing

[48] Kurihara, op. cit. supra note 2 at 67.

[49] This right of employees is expressly safeguarded in the United States by Section 7 of the Labor-Management Relations Act, 1947.

[50] Section 4, Commonwealth Act 103.

[51] Section 5, Commonwealth Act 213.

[52] Section 8 (a) (1) & (2).

[53] Section 5, Commonwealth Act 213.

said employees from joining legitimate labor organizations, the statute, curiously enough, has not been applied to prevent the making of so-called 'yellow dog' contracts. Philippine labor organizations are therefore, protected only from discrimination with regard to tenure of employment, and not from discrimination with regard to hire. It will be observed that the Labor-Management Relations Act, 1947, brands as an unfair labor practice "discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization." [54]

No specific provisions whatsoever exist for the regulation of labor organization activities, such as are termed "unfair labor practices" of labor organizations in this country.[55] Perhaps due to the comparative infancy of the labor movement in the Philippines, thus making it admittedly weaker than management, the specific enumeration of unfair labor practices on the part of unions was not found necessary. Statutory provisions against the impairment of the rights of individual laborers by unions would seem to be advisable, however, due to the overly enthusiastic campaigns for union membership in which intimidation of the individual worker or of the members of his family at times takes place. Under the present state of afairs such laborers are supposed to seek ordinary police protection when thus molested, a cumbersome and oftentimes ineffectual measure in practice. The lack of statutory safeguards of the individual rights of employees, moreover, has left labor organizations with no sense of responsibility as to the legality or illegality of their persuasions. Freedom of dissemination of views, arguments, or opinions, as safeguarded and regulated in the Labor-Management Relations Act,[56] finds no counterpart in Philippine labor statutes, and notices or handbills of labor and management often contain threats of reprisal and promises of benefits.

In connection with "unfair labor practices" on the part of unions, it may be of interest to make mention of a number of strikes staged by employees of American-owned firms in the Philippines in an attempt among other demands, at making these firms pay so-called back-salaries for the duration of the Japanese occupation during which time these employees were not doing any work whatsoever, the firms being closed. In the American jurisdiction, such an attempt at causing an employer to pay finds express prohibitions as unfair labor practice.[57] The argument of the labor unions in de-

[54] Section 8 (a) (3).
[55] Section 8 (b), Labor Management Relations Act, 1947.
[56] Section 8 (c).
[57] Section 8 (b) (6), Labor Management Relations Act. 1947

manding the pay in arrears allegedly due them was that the American employees and company officers who were interned by the Japanese and who, therefore, rendered no actual services, received their salaries in arrears for the length of their internment.

THE COURT OF INDUSTRIAL RELATIONS.

For the avowed purpose of affording "protection to labor," [58] the National Assembly of the Philippines passed a law creating the Court of Industrial Relations.[59] The Court was empowered to "fix minimum wages for laborers and maximum rentals to be paid by tenants and to enforce compulsory arbitration between employers or landlords, and employees or tenants." The power of enforcing compulsory arbitration with which the court is vested was the carrying into effect of the provision in the Philippine Constitution which reads: "The state may provide for compulsory arbitration." [60] It can safely be concluded that the setting up of such a court was foreseen by the policy makers of the Philippine government who made adequate provision for compulsory arbitration at the Constitutional Convention held in Manila the year before. Under the laws in force previous to the establishment of the Commonwealth of the Philippines, compulsory arbitration in industries not considered public utilities was regarded as unconstitutional on the ground that it was an interference with the employers' and employees' freedom of contract.[61] It is to be noted that the Court of Industrial Relations, despite its name, was to have jurisdiction over both industrial and agricultural disputes. This is because the great majority of gainfully employed workers in the country as a whole are engaged in agriculture.[62] The court, according to the law creating it, was to consist of a presiding judge and four associate judges to be appointed

[58] "Commonwealth Act 103 has for its major and salutary objective the settlement of disputes between employers and employees, between landlords and tenants. Justice, equity and the substantial merits of the case are the keynote and controlling consideration of the law . . . It is clear that the law has placed and expressed solicitude for the greater interests of justice, equity and the substantial merits of the cases of the disputants in cases of this nature." *Goseco vs. Court of Industrial Relations*, 39 Official Gazette 1453.

[59] Commonwealth Act 103 as amended by Commonwealth Acts 254 and 559 is entitled: "An Act to afford protection of labor by creating a Court of Industrial Relations empowered to fix minimum wages for laborers and maximum rentals to be paid by tenants, and to enforce compulsory arbitration between employers or landlords, and employees or tenants, respectively; and by prescribing penalties for the violation of its orders."

[60] Article XIV, Section 6.

[61] *Wolff Packing Company vs. Court of Industrial Relations*, 262 U.S. 522; see Sinco, op. cit. note 30 supra.

[62] In 1939 65% of the gainfully employed workers were engaged in agrigulture, while industry proper accounted for only 11.3%. This does not mean, however, that industry is proportionally less productive than agriculture, as productivity depends largely on the optimum application of capital to labor. (Figures deduced from Census of the Philippines, Bureau of the Census and

by the President of the Philippines with the consent of the Commission on Appointments of the National Assembly.[63]

It is to be borne in mind that, unlike the National Labor Relations Board,[64] clearly an administrative body, the Philippine Court of Industrial Relations is a special court and, therefore, a judicial entity, although vested with the powers, some not strictly judicial in nature, necessary for it to carry out the purposes for which it had been created.[65] Qualifications for appointment to the Court have been provided for, to minimize the possibility of purely political appointments. An idea of the importance of the court's mission may be gained from the fact that the judges of said court must have the same qualifications provided in the Constitution [66] for members of the Philippine Supreme Court. They are to be suspended or removed, however, in the same manner and upon the same grounds as the judges of the Philippines courts of first instance.[67]

Executive supervision over the court, like other entities in the Philippine judiciary other than the Supreme Court, is exercised by the Department of Justice, and in the event of temporary vacancies by reason of absence or illness or other like disability, or in case of a tie vote among the judges of the court, the Secretary of Justice is empowered to designate judges of the courts of first instance to sit temporarily until the court has arrived at an award, order or decision. The Court of Industrial Relations has all the inherent powers of a court of justice as provided for all courts by the Rules of Court,[68] as well as the power to punish direct or indirect contempts.[69] It can, therefore, unlike the National Labor Relations Board, enforce its own orders. The functions of the National Labor Relations Board, as brought out by the United States Supreme Court, are

---

Statistics, Manila, which contains excellent statistical data and tables on occupational groups, labor, industries, etc. See also Kurihara, op. cit. supra note 2 at 15 et seq.

[63] Section 2, Commonwealth Act 103.

[64] As created by Act of Congress, July 5, 1935, C-372, 49 Stat. 449, 29 USCA Section 151.

[65] "The Court of Industrial Relations . . . is not intended to be a mere receptive organ of the government. Unlike a Court of Justice which is essentially passive, acting only when its jurisdiction is invoked and deciding only cases that are presented to it by the parties litigant, the function of the Court of Industrial Relations is more active, affirmative and dynamic." Moran, *Comments on the Rules of Court* (1940) Vol. II at 786.

[66] "No person may be appointed member of the Supreme Court unless he has been five years a citizen of the Philippines, is at least 40 years of age, and has for ten years or more been a judge of a court of record or engaged in the practice of law in the Philippines." Article VIII (Judicial Department) Section 6.

[67] Section 1, Commonwealth Act 103.

[68] Rule 124, Section 5.

[69] Section 6, Commonwealth Act 103.

merely remedial, not punitive.[70] The functions of the Court of Industrial Relations are both remedial and punitive.

REGULATORY POWERS OVER WAGES AND RENTALS.

The Court of Industrial Relations has the duty, upon order of the President of the Philippines, to investigate and study all pertinent facts with a view to determining the necessity and fairness of adopting or fixing for any particular industry or locality, a minimum wage or share of laborers or tenants, or a maximum rental to be paid by tenants or lessees of landowners. The President shall direct such an investigation "whenever conditions in a given industry or in a given locality so warrant, and in the interest of public welfare and for the promotion of industrial peace and progress." [71] The President is also empowered to appoint boards of inquiry in different localities to assist the court in the performance of its mission.[72]

The necessity and fairness of adopting such measures are to be determined by the Court of Industrial Relations through a detailed examination of capital invested, laborers employed, cost of production, overhead, market prices, wage levels in different industries in the same locality, cost of living and real as against nominal income, with the end in view of giving the workingman a just compensation for their labor and an adequate income to meet the essential necessities of civilized life, and at the same time allow to capital a fair return on its investment.[73] The Court is empowered in its discretion, taking into account the conditions prevailing in different localities where an industry is carried on, to "fix different minimum wages or shares, according to localities, or different minimum wages or shares, according to the industries existing in that locality." The court may also classify or group the laborers according to the kind

[70] Gregory, *Labor and the Law* at 239.

[71] Section 5, Commonwealth Act 103.

[72] ". . . A local board of inquiry shall be composed of the following members: not more than six from landlords, an equal number from a list submitted by the employees, laborers, tenants or farm laborers, and not more than three experts in sociology, welfare work, labor problems or industrial and agricultural economics and administration; Provided, That if within fifteen days after requesting them to do so, the parties concerned fail to submit the list of nominees above mentioned, the President may appoint in their stead such persons as in his judgment may represent the parties failing to submit such nominees. The chairman of the board shall be designated by the President from among the experts. The majority of the board shall constitute a quorum to do business, and the affirmative vote of the majority of all the members present shall be necessary for the approval of any proposition. The members of the board shall receive no compensation but they shall be paid their travelling expenses. The boards of inquiry shall be charged with the duty of investigating and determining the facts in any given case, and their report and decision shall be deemed as only advisory." Sec. 9, Commonwealth Act 103.

[73] Section 5, idem, supra.

and importance of the work and the amount of skill and training required so as to fix a minimum wage for each class. The same method of classification is authorized in the case of agricultural laborers or tenants.

After the Court has arrived at what it deems a fair minimum wage for a particular locality or industry, or a fair maximum rental, the wages or rentals as the case may be shall be tentatively fixed and said rates shall be published three times in newspapers of general circulation in English and Spanish.[74] All parties not in conformity with the amounts so established are given forty-five days after the first publication within which to file written objections. After the objections have been given due consideration, and after the expiration of forty-five days, the court shall adopt a minimum wage or maximum rental as final, to be binding and to have the force of law thirty days after the approval thereof by the President of the Philippines duly promulgated in an executive proclamation. In actual practice, the Court has not often been directed by the President to conduct investigation and thus fix minimum wages and maximum land rentals. It has, therefore, rarely acted under the powers granted it by this provision. The level of wages, however, has been raised by the Court in innumerable instances by its decisions and awards resulting from compulsory arbitration, in which the wages ordered by the court for particular plants have effectively constituted precedents for like wage scales in all other plants.

JURISDICTION OF THE COURT OF INDUSTRIAL RELATIONS

The Court of Industrial Relations has jurisdiction "over the entire Philippines to consider, investigate, decide and settle all questions, matters, controversies or disputes[75] arising between and/or affecting employers and employees or laborers, and landlords and tenants or farm laborers,[76] and regulate the relations between them." Another provision of the act also sets forth in effect the limits of the court's jurisdiction, in providing that the court shall "take cognizance for purposes of prevention, arbitration, decision and settle-

[74] A curious provision, since among the three official languages in the Philippines, namely, English, Spanish and Tagalog (native malayan tongue), the last mentioned is the National Language and is more generally understood by the laboring classes, whom it primarily affects.

[75] Compulsory Arbitration in the Philippines thus runs the whole gamut of labor-management relations and disputes. It may be pointed out that in certain cases compulsory arbitration is provided for in the Taft-Hartley Act. Reference is made to Section 9 (b) (appropriate collective bargaining units); Section 10 (k) with reference to paragraph 4 (D) of Section 8 (b); and (5) (B) of Section 302 (c) re disputes regarding payments to trust funds.

[76] It is to be noted that no specific reference is made to 'labor organizations' unlike the Labor-Management Relations Act provision Section 1 (b). This is due to the fact that at the time of the passage of Commonwealth Act 103 and

ment, of any industrial or agricultural dispute causing or likely to cause a strike or lockout, arising from differences as regards wages, shares of compensation, dismissals, lay-offs or suspensions of employees or laborers, tenants or farm laborers, hours of labor or conditions of tenancy or employment, between employers and employees or laborers and between landlords and tenants or farm laborers provided that the number of employees, laborers or tenants or farm laborers involved exceeds thirty.[77] The dispute is to be submitted to the court by the Secretary of Labor or by any or both of the parties in the controversy.[78]

Questions have arisen as to whether the phrase "dispute causing or likely to cause a strike or lockout" is to be interpreted as being a prerequisite to the jurisdiction of the court, in other words, is it necessary that the dispute cause or be likely to cause a strike or lockout before the court can take cognizance of the case? The point was brought up in a case[79] involving certain harbor patrolmen who drew their salaries from a private firm but who held commissions in the city police force and were, therefore, public officers. The patrolmen's union had filed a petition in the Court of Industrial Relations seeking the court's intervention in a dispute against the private employer. The employer countered by a motion to dismiss for lack of jurisdiction, maintaining that the dispute could not cause or was not likely to cause a strike, since such an act on the part of public officers would per se constitute dereliction of duty, abandonment of office, or some other statutory offense instead of being a mere strike. The patrolmen's union maintained that Section 1, Commonwealth Act 103 and not Section 4 set forth the jurisdictional limits of the Court of Industrial Relations, and that the question as to the possibility of the dispute's causing a strike[80] or lockout was immaterial. The question involving jurisdiction, granting that the patrolmen were public officers, is still unresolved.[81] The resolution of the court will also constitute a ruling on the question as to whether both Section 1 and Section 4 or Section 1 alone sets forth the jurisdictional limits of the Court of Industrial Relations.

---

[77] Section 4, Commonwealth Act 103. Compare this definition with the definition of the term "labor disputes" in the Labor Management Relations Act, 1947, under Section 2 (a), which is more explicit.

[78] Idem, supra.

[79] *Manila Port Terminal v. Manila Terminal Relief and Mutual Aid Association and the Court of Industrial Relations*, CIR 86-V (1948).

[80] There is no specific provision in Philippine Labor legislation similar to section 305 of the *Labor-Management Relations Act*, 1947, prohibiting strikes against the government by government employees or employees of government agencies.

[81] The Court of Industrial Relations maintained that it had jurisdiction on the ground that the statute did not expressly exclude public officers and employees from the jurisdiction of the court. Appealed to the Philippine Supreme Court by certiorari, where the case is still pending.

The provisions of the law are not explicit as to whether the Court of Industrial Relations has jurisdiction over disputes arising between employers or management and employees who do not stand as such in proximate relation to the particular employer.[82] It would seem, however, that the court, judging from the breadth of the powers granted it and the purpose for which it was created, is not limited in jurisdiction to cases involving employers and their direct employees. The question with reference to this point has not been squarely raised due to the fact that secondary boycotts have not occurred in the Philippines up to the present. The jurisdiction of the court includes, unlike the National Labor Relations Board, farm employees or agricultural laborers, Philippine economy being an agricultural one.[83] Domestic help, not specifically referred to in the statute as outside the jurisdiction of the Court in Industrial Relations is effectively excluded due to the requirement that the court can take cognizance only of disputes involving more than thirty employees.[84]

Employees of government-owned corporations are within the purview of the statute and may bring cases to the Court of Industrial Relations. The question arose when the employees of a hotel which was operated by a government-owned railroad corporation filed a suit against the government corporation. The corporation maintained that since the employees were virtually de facto government employees, the court had no jurisdiction over a suit brought by them. In denying the validity of this contention and assuming jurisdiction, the Supreme Court stated: "There is nothing in the law that could be construed to exclude the employees and laborers of government-owned corporations from the benefit and protection thereof or to exempt such corporations from the operation of that law. . . . it is well settled that when the government enters commercial business, it abandons its sovereign capacity and is to be treated like any other corporation." [85] To the contention that the employees

---

[82] The Taft-Hartley Act specifically provides that the term 'employee' "shall include any employer and shall not be limited to the employees of a particular employer."

[83] "Of the 8,456,493 men and women gainfully employed in the Philippines prior to the war, agriculture accounted for about 41 per cent; domestic and personal services, 29 per cent; professional services, 11 per cent; and manufacturing, industry, trade and transportation, the remaining 19 per cent." Proposed program for Industrial Rehabilitation and Development prepared by the technical staff, National Development Company of the Philippines (1947) at 5.

[84] Section 4, Commonwealth Act 103. The requisite that the dispute involve more than thirty employees was deemed advisable in order to prevent the bringing of petty matters before the Court of Industrial Relations. Employees not exceeding thirty in number have recourse to the mediation services of the Department of Labor.

[85] *Manila Hotel Employees Association vs. Manila Hotel Company*, 40 Official Gazette 4173. Compare this interpretation with Section 2 (2) of the *Labor-Management Relations Act*, 1947, which provides against any difficulties

could very well appeal to the management of the government corporation and to the President of the Philippines for redress of any alleged grievances, the Supreme Court stated that such a contention would permit the Board of Directors of the employing corporation to assume the double role of litigant and judge, "which is intolerable." The case was all the more interesting due to the intervention of then President Manuel Quezon, who publicly expressed the view that as de facto government employees the petitioners had the right to join only such labor organizations as they themselves might form for purposes of mutual aid and benefit, and that in case of complaints said demands should be taken first to the management of the government corporation, and if satisfaction had not been obtained, to the President himself. It is to be observed that a question of this nature cannot arise in this jurisdiction under the Labor Management Relations Act, which expressly [86] excludes from the term "employer," the United States or any wholly owned government corporation.

The jurisdiction of the Court of Industrial Relations, once acquired, is retained until final decision is arrived at in the particular case. The contention has been advanced that as a result of a partial amicable agreement arrived at between the employer and the union during the pendency of the suit, only seven employees were still involved in the dispute, and that the court consequently had lost jurisdiction of the case, since the jurisdictional requirements laid down a minimum of over thirty employees. In rejecting the foregoing contention, the Supreme Court declared that the fact that all but seven of the employees had, since the filing of the case, been readmitted, cannot operate to divest the court of jurisdiction to decide not only the question as to the reinstatement of the seven employees, but also on the pay in arrears of those who had been readmitted.[87]

PROCEDURAL RULES OF THE COURT.

The Court of Industrial Relations is empowered to adopt its own rules of procedure.[88] The latest set of rules of internal procedure adopted by the court took effect on October 1, 1945, the general rules of Philippine courts of first instance being declared applicable to supplement the rules of the Court of Industrial Relations in so far as the former are not inconsistent with existing procedural pro-

---

in interpretation by stating that the term employer . . . "shall not include the United States or any wholly owned Government corporation."

[86] Section 2 (2).

[87] *Manila Hotel Employees Association vs. Manila Hotel Co.*, id. supra.

[88] Section 20, Commonwealth Act 103.

visions.[89] The rules of the Court of Industrial Relations differ mainly from the rules of other Philippine courts in that they seek to expedite proceedings, thus prescribing shorter time limits for the filing of pleadings, briefs and other papers. The power of the Court of Industrial Relations to adopt its own rules of procedure was challenged in a case in which the petitioner alleged the unconstitutionality of the act by which the court was founded on the ground, among others, that said statute conferred on the Court of Industrial Relations power to adopt its rules of procedure contrary to Article VIII, Section 13 of the Constitution which grants the power of promulgating all rules of pleading, practice and procedure exclusively to the Supreme Court. In declaring Commonwealth Act 103 to be constitutional, and in upholding the validity of the article [90] providing for the Court's adoption of its own rules of procedure, the Supreme Court stated: "The section provides clearly that the procedural rules to be adopted must be inspired by justice and equity and prescribe that the basis of judgment must be the substantial merits of the litigation leaving out of consideration legal technicalities. That is due process. Commonwealth Act 103 which thus provides for a special tribunal with power to promulgate its own rules and to decide agricultural and industrial disputes according to the dictates of justice and equity, is not violative of the guaranties of due process. Neither does it contravene the concept of Article VIII, Section 13, of the Constitution, because the Court of Industrial Relations is not in the same category as the municipal courts, justice of the peace courts, and courts of first instance to which the rules of court promulgated by the Supreme Court apply.[91]

In the adoption of its own rules of procedure and in exercising the powers that generally pertain to a court of justice, the Court of Industrial Relations is enjoined, in the hearing, investigation and determination of any question or controversy, to "act according to justice and equity and substantial merits of the case, without regard to technicalities or legal forms." The Court furthermore "shall not be bound by any technical rules of legal evidence, but may inform its mind in such manner as it may deem just and equitable." [92]

The above-quoted provision and the relatively uninhibited sphere of action of the Court in procedural matters necessarily give rise to questions of due process. Procedural due process insofar as the

---

[89] Section 10, Rules of Procedure of the Court of Industrial Relations.

[90] Section 20, Commonwealth Act 103.

[91] *Antamok Goldfields vs. Court of Industrial Relations*, 40 Official Gazette, 8th Supplement, 173.

[92] See 20

court is concerned has resulted in the following lengthy definition as rendered by the Philippine Supreme Court: [93]

> ". . The fact, however, that the Court of Industrial Relations may be said to be free from the rigidity of certain procedural requirements does not mean that it can, in justiciable cases coming before it, entirely ignore or disregard the fundamental and essential requirements of due process in trials and investigations of an administrative character. There are cardinal primary rights which must be respected even in proceedings of these character:
>
> "(1) The first of these rights is the right to a hearing, which includes the right of the party interested or affected to present his own case and submit evidence in support thereof. In the language of Chief Justice Hughes, in Morgan v. U. S., 304 U. S. 1, 'the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play.'
>
> "(2) Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal must consider the evidence presented. (Chief Justice Hughes in Morgan v. U. S. 298 U. S. 468. In the language of this Court in Edwards v. McCoy, 22 Phil. 598, 'the right to adduce evidence, without the corresponding duty on the part of the board to consider it, is vain. Such right is conspicuously futile if the person or persons to whom the evidence is presented can thrust it aside without notice or consideration.')
>
> "(3) 'While the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support its decision. A decision with absolutely nothing to support it is a nullity, at least when directly attacked.' (Edwards v. McCoy, supra). This principle emanates from the more fundamental principle that the genius of constitutional government is contrary to the vesting of unlimited power anywhere. Law is both a grant and a limitation on power.
>
> "(4) Not only must there be some evidence to support a finding or conclusion (City of Manila v. Agustin, G.R. No. 54844), but the evidence must be 'substantial.' (Washington, Virginia & Maryland Coach Co. v. National Labor Relations Board, 301 U. S. 142, 81 Law Ed. 965). 'Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.' (Appalachian Electric Power v. National Labor Relations Board, 4 Cir. 93 F. 2d 985, 989); . . The statute provides that 'the rules of evidence prevailing in courts of law and equity shall not be controlling.' The obvious purpose of this and similar provisions is to free administrative boards from the compulsion of technical rules it the mere admission of matter which would be deemed incompetent in judicial proceeding would not invalidate the administrative order. (Interstate Commerce Commission v. Baird, 194 U. S. 25,

[93] *Ang Tibay v. Court of Industrial Relations*, 40 Official Gazette, 7th Supplement, 29.

44; Interstate Commerce Commission v. Louisville & Nashville R. Co., 227 U. S. 88, United States v. Abilene & Southern Ry. Co., 265 U. S. 274; Tagg Brothers & Moorhead v. United States, 280 U. S. 420. But this assurance of a desirable flexibility in administrative procedure does not go so far as to justify orders without a basis in evidence having rational probative force. Mere uncorroborated hearsay or rumor does not constitute substantial evidence. (Consolidated Edison Co. v. National Labor Relations Board, 59 S. Ct. 206.)

"(5) The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected. (Interstate Commerce Commission v. L. & N. R. Co., 227 U. S. 88.) Only by confining the administrative tribunal to the evidence disclosed to the parties, can the latter be protected in their right to know and meet the case against them. It should not, however, detract from their duty actively to see that the law is enforced, and for that purpose, to use the authorized legal methods of securing evidence and informing itself of facts material and relevant to the controversy. Boards of inquiry may be appointed for the purpose of investigating and determining the facts in any given case, but their report and decision are only advisory. (Section 9, Commonwealth Act 103). The Court of Industrial Relations may refer any industrial or agricultural dispute or any matter under its consideration or advisement to a local board of inquiry a provincial fiscal, a justice of the peace or any public official in any part of the Philippines for investigation, report and recommendation, and may delegate to such board or public official such powers and functions as the said Court of Industrial Relations may deem necessary, but such delegation shall not affect the exercise of the Court itself of any of its powers. (Section 10, ibid.)

"(6) The Court of Industrial Relations or any of the judges, therefore, must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision. It may be that the volume of work is such that it is literally impossible for the titular heads of the Court of Industrial Relations personally to decide all controversies coming before them. In the United States the difficulty is solved with the enactment of statutory authority authorizing examiners or other subordinates to render final decision, with right to appeal to board or commission, but in our case there is no such statutory authority.

"(7) The Court of Industrial Relations should, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decisions rendered. The performance of this duty is inseparable from the authority conferred upon it."

INVESTIGATORY AND INCIDENTAL POWERS OF THE COURT.

In order to enable the Court of Industrial Relations to carry out its functions as laid down by the law providing for its existence,

said tribunal was vested with certain investigative and incidental powers. The Court has the power to administer oaths, to summon the parties involved in a controversy to appear before it, to require the attendance of witnesses and the production of all books, papers, and accounts as may be necessary and material to a just determination of cases pending. The Court is furthermore empowered to take testimony in any investigation pursuant to its specified powers or duties, such as the fixing of minimum wages and maximum rentals in particular localities. It is expressly authorized to delegate, whenever necessary, all the above stated powers to any board or person who shall act in its behalf.[94]

The Court of Industrial Relations also has the power to conduct hearings in any place for the determination of a question within its jurisdiction, proceed to hear a dispute or reach a decision on said dispute in the absence of any party that had been served with notice to appear, and conduct its hearings in public or in private; refer any technical matter or matters of account to an expert, with the right to accept his report as evidence and dismiss any matter or refrain from further hearing any matter "where it is trivial or where further proceedings by the Court are not necessary or desirable." [95] The mobility of the court is rendered necessary due to the fact that it has jurisdiction over the entire Philippines, and it has been the practice of the court to hold hearings in places other than in Manila, especially when agrarian disputes have broken out in rural districts. The court has its own corps of accountants and trained investigators to examine the books of employers and absentee landlords. Many of the problems that have arisen in particular cases, however, demand specialized knowledge in economics, wage trends, and other similar matters calling for the advice and assistance of experts, on full time duty with the court. The court, however, has not taken full opportunity of affording itself with their services.

In connection with the duty of the court of fixing, upon orders of the President, minimum wages and maximum rentals in particular localities and in connection with industrial or agricultural disputes, employers and employees or landlords and tenants may petition for the appointment of assessors, not exceeding three for the employers or landlords, and an equal number for the employees to be chosen from the lists of acceptable assessors submitted by the parties themselves. The assessors are to serve without compensation. Their functions are mainly advisory, in order to assist the court in reaching a decision or making an award.[96]

[94] Section 6, Commonwealth Act 103.
[95] Section 7, Commonwealth Act 103.
[96] Section 8, Commonwealth Act 103.

The Court of Industrial Relations is empowered to refer any industrial or agricultural dispute, or any matter pending before it to local boards of inquiry, judges and to provincial prosecuting attorneys for investigation, report and recommendation, delegating to said officers any power which the court may deem necessary, the delegation, however, as expressly specified, shall not affect the exercise by the court of any of its powers or functions. The court may take into account or set aside the recommendation of any such board.[97] The court is also authorized to seek help from other officers who are required to render whatever services may be necessary without additional compensation.[98] A judge of the court or any person bearing a written authority from any of the judges of the court may at any time during working hours inspect any labor factory or place of work and machinery therein, and may ask any employee, tenant or farm laborer, as the case may be, any question pertinent to the purpose of the inspection. The obstruction of any phase of said inspection or the refusal to furnish information when required to do so will render the person responsible liable for contempt.[99]

(*TO BE CONTINUED IN NEXT ISSUE*)

---

[97] Section 10, Commonwealth Act 103.
[98] Section 11, Commonwealth Act 103.
[99] Section 12, Commonwealth Act 103.