

Recent Cases

POWER OF CIR TO ORDER RECALL OF STRIKERS

A number of laborers working in the petitioner's can factory staged a strike and established a picket line around the company's compound. The company dropped from the payroll all those who failed to return to work in the afternoon of the same day after having posted a notice to that effect at the gate of the company's compound. The question raised was whether the Court of Industrial Relations could order the reinstatement of the dismissed laborers pending the decision of the case. The court ordered their re-instatement, said order having been based on Section 19 of C.A. No. 103. The Supreme Court reversed the decision of the Court of Industrial Relations holding that when the employer claims that the strike of some of its laborers is illegal and raises such alleged illegality squarely before the Court of Industrial Relations and further asserts that because of loss of its business, it does not presently need the services of said strikers, the Court of Industrial Relations instead of ordering the strikers back to work, should first determine whether or not the strike was illegal, and whether or not the strikers had been properly and lawfully discharged. If improperly discharged, the company can always be ordered to pay the laborers their back wages. (Philippine Can Company vs. Court of Industrial Relations and Liberal Labor Union, G. R. No. L-3021, July 13, 1950.)

According to the Court, a

strike is a coercive measure resorted to by the laborers to enforce their demands. The employer not infrequently gives in to the demands of the strikers so that he could maintain the continuity of the production which may have been interrupted or paralyzed by the strike. If the strikers refuse to return to work, the employer company seeks permission from the court to employ other laborers to take their places. In such cases, pending the decision of the case, especially when public interests so require or when the case cannot be promptly decided, the strikers are ordered back to work. But the facts of this case differ from ordinary cases. Public interests are hardly affected and due to intense and ruinous competition, the company has suffered a loss in its business; thus, it did not seek the permission of the court to employ other laborers to take the places of the strikers. Because the company's business could not be affected by the failure to reinstate the laborers, the court seems to have ignored the interests of the laborers when it held that the need for ordering the strikers back to work in ordinary cases does not exist in the present case. The reinstatement of the dismissed laborers, according to the court, would do an injustice towards the employer because of the loss in its business. On the other hand, failure to reinstate the laborers would not do the latter

injustice because anyway, the company could always be compelled to pay them back wages in case the court decides that their strike was lawful. It is true that in the latter event, the laborers would be entitled to back wages. But during the pendency of the case there is little chance for such laborers to get an employment of a more or less permanent nature. The majority of them, if not all, would be out of employment. The proceedings may go on and it will take time before the court can render its decision. In the meanwhile, the laborers have to live. And wherewith would they get the things needed for subsistence? Apparently, the court was conscious of the situation such laborers may find themselves in, when it provided that cases of this nature must be decided with preference over others. The court is often confronted with these cases and in hearing them and rendering decisions for each of them, one case must be decided before the others, to the prejudice of those involved in cases which have to be decided later. And besides, even if such cases be treated with preference, such preference would not place the laborers in a better position, taking into consideration the time for hearing, trial, decision and appeal.

The majority of judges in the Court of Industrial Relations were of the opinion that the case cannot be promptly settled and so ordered that the laborers be reinstated. In reversing such a decision, the Supreme Court denied reinstatement not because the case can be settled promptly but because public interests are not involved and because injustice would result to the employer due to the loss of his business. It is to be noted that the court

took into consideration the statement of the petitioner to the effect that the reinstatement would mean an outlay of about one thousand four hundred pesos (P1,400.) a week, or five thousand six hundred pesos (P5,600.) a month in the form of wages, such statements being mere allegations of the petitioners. But as to the strikers, they would suffer no damage by not being readmitted pending the decision of the case because they will be entitled to back wages in the event that the strike be declared lawful. The interest of the laborer as well as that of the employer should have been considered not only with respect to the final outcome of the case but also their respective situations during the pendency of the case.

The Supreme Court quoted the following portion of the decision rendered in the case of *Manila Trading and Supply Company vs. Zulueta* (G.R. 46853), "But much as we should expand beyond economic orthodoxy, we hold that an employer cannot legally be compelled to continue employment of a person who admittedly was guilty of misfeasance or malfeasance towards his employer and whose continuance in the service of the latter is patently inimical to his interests. The law, in protecting the rights of the laborer, authorizes "neither oppression nor self-destruction of the employer." It is clear that this ruling is applicable only after it has been shown that such person or persons are guilty of misfeasance or malfeasance towards the employer or his property. It is submitted that before such malfeasance or misfeasance is proved or before the strike is finally decided as illegal, acts which amount to a strike committed by the laborers cannot be regarded as illegal, following

the spirit of the good faith presumption and the presumption of innocence in criminal cases. Of course, courts can justly refuse to reinstate laborers who have declared a strike under certain circumstances. For instance when they declare a strike even before the outcome of the investigation conducted by the city fiscal with respect to a case of assault by the company's foreman upon a laborer, which assault led the laborers to declare such strike (*National Labor Union vs. Phil. Match Factory*, 40 O.G. 8th Supp. p. 134) or when the laborers commit acts of sabotage by interfering with the company's regular functioning and injuring

the property rights of their employer or intimidating their co-workers who remain loyal to the employer. (*Nat. Labor Union vs. Court*, 40 O.G. 3rd Supp. p. 37) In such cases, therefore, when the employees are guilty of vandalic acts, acts of violence, or sabotage against the employer or against his property, the court cannot legally compel the company to reemploy the laborers because "the law in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer. (*Manila Trading & Supply Company vs. Zulueta*, supra).

TERESITA J. HERNANDEZ

POWER OF THE SENATE TO PUNISH NON-MEMBERS FOR CONTEMPT

Jean L. Arnault was confined in the New Bilibid Prison in Muntinlupa, Rizal, by virtue of a resolution adopted by the Senate on May 15, 1950, which stated that for his refusal to reveal the name of the person to whom he gave the ₱440,000 he should be so imprisoned until discharged by further order of the Senate or by the special committee created by Senate Resolution No. 8, when he shall have purged the contempt by revealing to the Senate or to the said special committee the name of the person to whom he gave the ₱440,000 as well as answer other pertinent questions in connection therewith. From this confinement Jean L. Arnault seeks to be released by filing a petition for a writ of habeas corpus.

The main issues in this case are whether the Senate has the power to punish non-members for

contempt and if it has such power, what is its extent? The Supreme Court, speaking through Justice Ozaeta, denied the petition ruling that the Senate has the power to punish for contempt persons other than members because it is an essential and appropriate auxiliary to the legislative function. And as to the extent of such power, it said that since the Senate is a continuing body which does not cease to exist upon the periodical dissolution of the Congress, there is no limit as to time to the Senate's power to punish for contempt in cases where that power may constitutionally be exerted. (*Arnault vs. Nazareno and Balagtas*, G. R. No. L-3820, July 18, 1950.)

In resolving the issues of this case, the Supreme Court was faced with three main questions: (1) the extent of the congressional power of inquiry and the

limits of the power of judicial review, (2) the nature of the privilege against self-incrimination, and (3) the duration of punishment.

The answer to the first question lies in the nature of our government. The Philippine Constitution, like the American Constitution, vests the powers of the Government in three independent but coordinate Departments—the Legislative, Executive, and Judicial Departments. The Legislative power is vested in the Congress of the Philippines, which consists of the Senate and the House of Representatives (Article VI, Section 1). The Judicial power is vested in the Supreme Court and in such inferior courts as may be established by law (Article VIII, Section 1). The Constitutions of both the United States and the Philippines do not contain any express provision empowering either House of Congress to punish non-members for contempt. However, despite this lack of an express provision, it is well settled in the United States that such power is possessed by Congress because it is inherent in the authority to legislate.¹ If this power is possessed by the Federal Congress which has only a limited delegated authority, so much more must it be possessed by the Philippine Congress which is

¹ "Each house may also punish contempts of its authority by other persons, where they are committed in its presence, or where they tend directly to embarrass or obstruct its legislative proceedings; and it requires for the purpose no express provision of the constitution conferring the authority . . .

"American legislature bodies have not been clothed with the judicial function, and they do not therefore possess the general power to punish for contempt; but as incidental to their legislative authority, they have

vested with the plenitude of the legislative power. Thus, it may be said that the Congress of the Philippines has a wider range of legislative field than the Congress of the United States or any State Legislature.

Since the Congress of the Philippines has a wider range of legislative field than either the Congress of the United States or a State Legislature, the field of inquiry into which it may enter is also wider. It would be difficult to define any limits by which the subject matter of its inquiry can be bounded. It must be co-extensive with the range of the legislative power. However, Justice Tuason, in his dissenting opinion, maintains that the power to punish for contempt is restricted "by considerations as to the nature of the inquiry, occasion, or action in connection with which the contemptuous conduct has occurred"; and that "congressional or legislative committees both here and in the United States do not embark upon fishing expeditions in search of information which by chance may be useful to legislation."

The petitioner contends that the question propounded to him is immaterial to, and will not serve, any intended or purported legislation and his refusal to answer the question has not embarrassed, obstructed, or impeded

the power to punish as contempts those acts of members or others which tend to obstruct the performance of legislative duty, or to defeat, impede, or embarrass the exercise of legislative power." (Cooley, *Constitutional Limitations*, Vol. I, pp. 272-273, 8th ed.)

"We are of the opinion that the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function." (McGrain vs. Daugherty, 273 U. S. 135; 71 L. ed. 580; 50 A.L.R. 1, p. 17).

the legislative process. But, the court ruled that the materiality of the question must be determined by its direct relation to the subject of the inquiry and not by its indirect relation to any proposed or possible legislation, for the reason that the necessity or lack of necessity for legislative action and the form and character of the action itself are determined by the sum total of the information to be gathered as a result of the investigation, and not by a fraction of such information elicited from a single question.

The petitioner in this case was subpoenaed to appear as a witness before a special committee created by resolution of the Senate to investigate the Buenavista and Tambobong Estate deals. The power of the special committee to do so was expressly conferred by the aforesaid resolution in order that it may comply with its duty "to determine whether the said purchase was honest, valid, and proper and whether the price involved in the deal was fair and just, the parties responsible therefor, and any other facts it may deem proper in the premises." The petitioner was asked to whom he gave the ₱440,000 which formed part of the ₱1-1/2 million paid to Burt, to which he answered alternately that he did not know and that he did not remember. A similar case was that of *In re Chapman* (166 U.S. 661, 41 L. ed. 1154), wherein an inquiry was conducted under a resolution of the Senate relating to charges, published in the press, that senators were yielding to corrupt influences in considering a tariff bill then before the Senate and were speculating in stocks the value of which would be affected by pending amendments to the bill.

Chapman was asked whether the firm of which he was a member had bought or sold any sugar stocks for or in the interest of any U.S. senator, and whether said firm was at that time carrying any sugar stock for the benefit of, or in the interest, directly or indirectly, of any U.S. senator. Upon his refusal to answer, he was prosecuted under an Act of Congress for contempt of the Senate and was convicted. To his petition for a writ of habeas corpus the Supreme Court of the United States answered that the committee had the right to compel the witness to answer said questions because they were "undoubtedly pertinent to the subject-matter of the inquiry."

Petitioner relied upon the decision in the case of *Kilbourn vs. Thompson* (103 U.S. 168, 26 L. ed. 377) in which the Supreme Court of the United States ruled that the House of Representatives did not possess a "general power of making inquiry into the private affairs of the citizen"; and that the power actually possessed is limited to inquiries relating to matters of which the particular House has jurisdiction, and in respect of which it rightfully may take other action. But Justice Ozaeta distinguished the case at bar from the case of *Kilbourn vs. Thompson* in two respects: "(1) There (referring to the case of *Kilbourn vs. Thompson*) the court found that the subject of the inquiry, which related to a private real-estate pool or partnership, was not within the jurisdiction of either House of Congress; while here (referring to the case at bar) it is not disputed that the subject of the inquiry, which relates to a transaction involving a questionable expenditure by the Government of ₱5,000,000 of public funds, is within the jurisdiction of the Senate. (2) There

the claim of the Government as a creditor of Jay Cooke & Company, which had an interest in the pool, was pending adjudication by the court; while here the interposition of the judicial power on the subject of the inquiry cannot be expected until after the Senate shall have determined who the parties responsible are and shall have taken such measures as may be within its competence to take to redress the wrong that may have been committed against the people as a result of the transaction."

Also relied upon by the petitioner was the case of *Marshall vs. Gordon* (243 U.S. 521, 61 L. ed. 881) wherein the House of Representatives punished for contempt of its authority the District Attorney of the Southern District of New York for having written, published, and sent to the chairman of one of its committees an ill-tempered and irritating letter respecting the action and purposes of the committee in interfering with the investigation by the grand jury of alleged illegal activities of a member of the House of Representatives. The court in this case ruled that the action of the House of Representatives was unjustified because the letter was not calculated or likely to affect the House in any of its proceedings or in the exercise of any of its functions. The majority decision discredited this case as being inapplicable to the facts of the case at bar.

On this point, the respondents contend that the ruling of the Senate on the materiality of the question propounded to the witness is not subject to review by the Supreme Court under the principle of the separation of powers. But, the majority opi-

nion disposed of this by saying that where the alleged immateriality of the information sought by the legislative body from a witness is relied upon to contest its jurisdiction, the court is in duty bound to pass upon the contention. The fact that the legislative body has jurisdiction or the power to make the inquiry would not preclude judicial intervention to correct a clear abuse of discretion in the exercise of that power. However, since the court cannot determine what legislation to approve or not to approve, it may not say that the information sought from the witness which is material to the subject of the legislative inquiry is immaterial to any proposed or possible legislation.

Another limitation to the power of Congress to punish for contempt a witness who refuses to answer is the privilege against self-incrimination. The petitioner contends that he would incriminate himself if he should reveal the name of the person to whom he gave the P440,000 because if that person be a public official he (witness) might be accused of bribery, and if that person be a private individual the latter might accuse him of oral defamation. But the Supreme Court denied him the benefit of this limitation for the reason that his claim was inconsistent and unjustified.

"The witness cannot assert his privilege by reason of some fanciful excuse, for protection against an imaginary danger, or to secure immunity to a third person."¹

On the other hand, it was his duty as a citizen to give frank, sincere, and truthful testimony before a competent authority.

¹ Wharton, *Criminal Evidence*, Vol. III, 11th ed., sec. 1136.

The state has the right to exact fulfillment of a citizen's obligation, consistent of course with his right under the Constitution.

The third question deals with the duration of the punishment which the Senate may impose for contempt of its authority. The petitioner contended that it lacks authority to commit him for contempt for a term beyond its period of legislative session, which ended on May 18, 1950. He bases this contention on the opinion of Mr. Justice Malcolm in the case of *Lopez vs. De los Reyes* (55 Phil. 170) to the effect that the term of imprisonment meted out to the petitioner could not legally be extended beyond the session of the body in which the contempt occurred. In the latter case the decision was so divided as to preclude any definite pronouncement on the matter.

In the case of *Anderson vs. Dunn* (6 Wheaton 204, 5 L. ed. 242) the United States Supreme Court made the following statement:

"And although the legislative power continues perpetual, the legislative body ceases to exist on the moment of its adjournment or periodical dissolution. It follows that imprisonment must terminate with that adjournment."

Mr. Justice Malcolm construed this to mean that the power to punish for contempt terminates with the end of each session of the body. Chief Justice Avanceña, however, held that this meant

the end of its existence, not any particular session. Thus, he said that the power to punish for contempt continues until its final adjournment and the election of its successor. To the latter interpretation, the present Supreme Court seems to adhere.

Applied to the House of Representatives, whose members are all elected for a term of four years, such power cannot be held to extend beyond such four years. The Senate, however, poses another problem. Since the Senate of the Philippines is a continuing body whose members are elected for a term of six years and so divided that the seats of only one-third become vacant every two years, two-thirds always continuing into the next Congress save as vacancies may occur through death or resignation, how long should be the duration of punishment for contempts against its authority? To this question the Supreme Court answered that there is no limit as to time to the Senate's power to punish for contempt in cases where that power may constitutionally be exerted. This is in accord with the decision in the case of *McGrain vs. Daugherty* (supra).

This decision of our Philippine Supreme Court sets a new precedent in Philippine Constitutional law. What effect it will have on future decisions we cannot exactly foretell. Time alone will give us the answer.

YOLANDA QUISUMBING

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