

1952 SURVEY OF ADMINISTRATIVE LAW

VICTOR H. RODRIGUEZ *

Administrative Law is a subject that engenders an atmosphere of controversy, "electrically charged by competing philosophies of government, by contradictory ideals of judicial administration and by diverse principles of social utility."¹ Administrative agencies and practices seem to defy both the principle of separation of powers and the strict formulation of the rule of law.² They are a curious hybrid, exercising as they do executive functions, as well as powers analogous to that of the legislative and judicial branches of the orthodox tri-partite form of government.³ As such, they have been bitterly criticized as constituting a headless "fourth branch" of the Government, a "haphazard deposit of irresponsible agencies and uncoordinated powers" which do violence to the basic theory of the Constitution that there should be three major branches of the Government and only three.⁴

More level-headed authorities in the field, however, have classified these agencies as falling under the executive branch of the tri-partite scheme of government.⁵ They are also subject to the checks of Congress, which continues to discharge its control function through its power to control the activities of such agencies, if not to abolish them, together with the Congressional power of appropriation and investigation.⁶ Courts, too, may pass upon the legal aspects of the decision of such administrative bodies.⁷

* Vice-Chairman, Student Editorial Board, 1952-53. We wish to acknowledge with gratitude the aid extended by Misses Corazon Barrion, Minerva Gonzaga and Lydia Vendiola for digesting the cases and to thank Miss Remedios Balderrama for helping prepare the footnotes.

¹ Vanderbilt, Arthur T., *The Place of the Administrative Tribunal in our Legal System*, in DAVIS, *CASES ON ADMINISTRATIVE LAW*, p. 54.

² PENNOCK, *ADMINISTRATION AND THE RULE OF LAW*, p. 19; II TAÑADA and FERNANDO, *CONSTITUTION OF THE PHILIPPINES*, 4th Ed., p. 714.

³ Vanderbilt, *op. cit.*, p. 55. See TAÑADA and FERNANDO, *op. cit.*, pp. 713-714; Pound, C., *Constitutional Aspects of Administrative Law*, in *The Growth of American Administrative Law*, 110, *cited in* FERNANDO and QUISUMBING-FERNANDO, *BRIEF SURVEY OF ADMINISTRATIVE LAW INCLUDING PUBLIC OFFICERS AND ELECTION LAW*, p. 1.

⁴ Report, *The President's Committee on Administrative Management (1937)*, in DAVIS, *CASES ON ADMINISTRATIVE LAW*, p. 59. This report also describes administrative agencies as "miniature independent governments set up to deal with the railroad problem, the banking problem, or the radio problem."

⁵ TAÑADA and FERNANDO, *op. cit.*, pp. 713-714; Pound, *op. cit.*, p. 1.

⁶ TAÑADA and FERNANDO, *op. cit.*, p. 714.

⁷ *Ibid.*

A thought provoking theory has been advanced, however, that these agencies when performing adjudication functions, should enjoy the independence, which is unquestionably possessed by the Judiciary. They should have the attributes, the working conditions and the professional environment of judges—"the safeguards that centuries of experience have demonstrated to be essential to the maintenance and administration of what Blackstone calls common justice."⁸

This confusion of powers may be partly blamed on the very rapid development of administrative law, which has produced results that cannot be described as orderly or systematic, either from the point of view of constitutional doctrine or from that of political theory.⁹

Be that as it may, this spawn of governmental necessity, has grown and is still growing. The need for administrative agencies has been identified with the growing complexity of modern life, the multiplication of the subjects of governmental regulation and the increased difficulty of administering the laws.¹⁰

Courts in the United States are not wholly blind to the practical exigencies of government. In fact they frequently exhibit what Pennock¹¹ calls "a remarkable ingenuity in the art of putting new wine into old bottles." They have accommodated themselves to a spectacular growth of agencies and practices which seem to do violence to our traditional form of government. Such has been the attitude of the Supreme Court of the Philippines during the past years. Thus, 1952 saw this exalted Tribunal upholding their jurisdiction even as against regular courts of justice. The Supreme Court, however, has not been slow in correcting and rebuking these agencies, when they trod forbidden grounds. The Court was especially touchy this year, about administrative agencies tampering with its final judgment.

I. POWERS

A. POWER OF INVESTIGATION

The power of investigation of the Securities and Exchange Commission, was examined by the Supreme Court in the case of *Securities*

⁸ Vanderbilt, *op. cit.*, p. 57; see note 4, *supra*, p. 60.

⁹ PENNOCK, *op. cit.*, p. 20.

"These commissions have been the result of legislative groping rather than the pursuit of a consistent policy. This is shown by the wide variety in their structure and functions and also by the fact that just as frequently the Congress has given regulatory functions of the same kind to the regular executive departments. (Report, *op. cit.*, p. 59).

¹⁰ *Pangasiman Transportation Company v. Public Service Commission*, 40 O. G., 8th sup. 57.

¹¹ PENNOCK, *op. cit.*, p. 19.

and Exchange Commission vs. Pimentel.¹² This case was an appeal by the respondent Pimentel, from a decision of the Court of First Instance of Manila adjudging him guilty of contempt, for refusing to comply with a subpoena duces tecum issued by the S. E. C., commanding him to deliver to the office of the S. E. C. certain books and records of the International Colleges, Inc. The subpoena was issued as the Commission was inclined to believe that there had been a violation of Sec. 51 of the Corporation Law, which requires corporations to "keep and carefully preserve a record of all business transactions." The respondent contended that the S. E. C. had no power to conduct this investigation, because the power conferred upon the Commission by C. A. No. 287 to enforce all laws affecting corporations and all other associations, refers only to matters relating to the registration of corporations.

In holding this contention to be without merit, the Supreme Court observed that under the provision of Sec. 1¹³ of C. A. 287, the S. E. C. is (1) entrusted with the powers, duties and functions theretofore performed and exercised by the Bureau of Commerce in connection with the registration of corporations and all other forms of associations, and (2) charged with the enforcement of all laws affecting corporations and associations, with the exception that the power now exercised by other bureaus and offices over certain classes of corporations shall remain unaffected. Under the second power, the S. E. C. is expressly empowered to conduct such investigations as it may consider necessary.

Justice Paras, who penned the decision, construed the above-mentioned second power as "plainly unqualified and distinct from the powers transferred by the Bureau of Commerce to the S. E. C."

The Supreme Court also rejected the contention that under Sections 54-55 of the Corporation Law, only the President of the Philippines can order the investigation of a corporation which violates section 51 of the Corporation Law. While it is true that the Pres-

¹² G. R. No. L-4228, prom. Jan. 23, 1952.

¹³ Sec. 1, C. A. No. 287, which provides as follows:

"The powers, duties, and functions now vested in, or performed and exercised by the Bureau of Commerce in connection with the registration of corporations and all other forms of associations are transferred to the Securities and Exchange Commission. The Securities and Exchange Commission shall be charged with the enforcement of all laws affecting corporations and associations, and to this end, may conduct such investigations as it may consider necessary; Provided, That the power herein conferred shall in no manner affect the power now exercised by government bureaus or offices over certain classes of corporations. In the exercise of the power of investigation, the provisions of the sec. 31, of C. A. 83, creating the Securities and Exchange Commission including the penalties therein provided, shall be applicable."

ident possesses the visitorial power over any corporation, "said power is not exclusive and does not impair the functions of the S. E. C. under C. A. No. 287 in relation to the enforcement of all laws affecting corporations and associations."

By express provision of law,¹⁴ the registration of Labor unions shall be allowed only after investigation of the purposes and activities of the applying union has been made, by the Secretary of Labor. Because of this fact, the Supreme Court in the case of *Association of Beverage Employees vs. Figueras*,¹⁵ impliedly recognized the authority of the Secretary of Labor to grant temporary permits to labor unions.

The facts of the case are as follows: On August 17, 1950, the Secretary, upon application, issued registration permit No. 974. With this permit, was transmitted a letter to the applicants which in part said that the permit was "without prejudice to such action as this Department may deem proper to take as a result of the investigation being conducted by G-3, Philippine Constabulary as regards the activities of that union, may warrant." Three months later, the Secretary cancelled the permit "in view of the findings and recommendation of the Chief of Constabulary concerning the subversive activities of said union."

The petitioners argued that since there was no provision of law for the issuance of a temporary permit, the permit issued to them was for all intents and purposes, the permanent permit contemplated in Sec. 3 of C. A. 213, and could only be revoked for one or more of the causes enumerated in Sec. 4 of said Act.

In upholding the action of cancellation by the Secretary of Labor, the Supreme Court pointed out that the temporary character of the permit could be seen not only from the letter of transmittal of the Secretary, but also in the permit itself.

Furthermore, Justice Tuason said:

"* * * The registration which has been revoked was allowed before any investigation started. It would not be according to the canon of statutory construction to regard this registration as absolute, when Section 3 makes it the duty of the Secretary of Labor before allowing such registration to satisfy himself that the applicants possess all the qualifications and none of the disqualifications required by law."

And:

"Granting, for the purpose of argument, that the Secretary of Labor is not authorized to issue a temporary permission, as contended, it would

¹⁴ Sec. 3, C. A. 213.

¹⁵ G. R. No. L-4813, prom. May 28, 1952.

not follow that the permission in question was clothed with the character of final registration. The result should be, rather, that the said permission was null and void, and its nullity should furnish the best argument for its withdrawal."

B. POWER OF REGULATION

It appears that the regulatory power when granted to administrative agencies, is primarily intended to be for the protection and convenience of the public. Thus, the Public Service Commission was conferred this power of inspection and control of the equipment and other properties of public services and utilities to insure and safeguard the convenience of the public;¹⁶ while the Insurance Commissioner was given "such broad powers of supervision over insurance companies as are seldom conferred upon parallel administrative agencies," for the benefit of local policy holders, whose interest it is his principal duty to protect.¹⁷

The Commissioner of Customs has control over judicial actions and proceedings instituted on behalf of the Government under the authority of the customs laws.¹⁸ The Commissioner, therefore, may take charge of the filing of pleadings, the conduct of hearing, the presentation of evidence and even the taking of an appeal from a decision of the Court of First Instance, adverse to the Government, to the Supreme Court. But it is clear that he cannot, under the guise of such power modify a final decision of a court.¹⁹

C. INTERPRETATION BY ADMINISTRATIVE OFFICERS

The case of *Philippine Long Distance Telephone Co. vs. Collector of Internal Revenue*,²⁰ is authority to the effect that while a prolonged practice on the part of an executive or administrative officer in charge of executing a certain statute is an authoritative construction of great weight, the principle is not absolute and may be overcome by strong reasons to the contrary. If through a misapprehension of law an officer has erroneously executed it for a long time, the error may be corrected when the true construction is ascertained.

Another case on interpretation in 1952, was *Abbott Laboratories vs. Agrava*.²¹ This was an appeal from the decision of the Director

¹⁶ *Municipality of Gattaran v. Elizaga and Elizaga*, G. R. No. L-4378 and 4379, prom. May 28, 1952; *Zamboanga Transportation Co., Inc. v. Fargas*, G. R. No. L-4604, prom. March 28, 1952.

¹⁷ *Scottish Union & National Insurance Co. v. Macadaeg*, G. R. No. L-5717, prom. Nov. 19, 1952.

¹⁸ Revised Administrative Code, sec. 1368.

¹⁹ *Rovero v. Amparo*, G. R. No. L-5482, prom. May 5, 1952.

²⁰ G. R. No. L-3222, prom. Jan. 21, 1952.

²¹ G. R. No. L-4234, prom. May 21, 1952.

of Patents disallowing a patent application of the Abbott Laboratories of Illinois, U. S., on the ground that it had been filed out of time, i.e., after February 28, 1948. The petitioner, on the other hand, contended that under the provisions of Sec. 76 of the Patent Law,²² the deadline was July 1, 1948 and not February 28, 1949. Said Sec. 78 extended certain priority rights for filing application until July 1, 1948, "in favor of citizens or subjects of countries which have extended, or which now extend, or which within said period ending the first day of July, nineteen hundred and forty-eight, shall extend substantially reciprocal privileges to citizens of the Philippines."

The Director of Patents reasoned out that inasmuch as Filipinos could enjoy in the U. S. priority rights similar to those granted by Sec. 76, *only up to* February 29, 1948, therefore American citizens may invoke in the Philippines priority rights only up to February 29, 1948. The Director in explaining his position cited an exchange of correspondence called "executive agreements" between the U. S. Secretary of State and the Philippine Ambassador. Both notes declared that, in the matter of priority patent rights, the deadline for Filipinos in the United States and for Americans in the Philippines was February 29, 1948.

The Supreme Court, in deciding the case, found it unnecessary to delve into the question of whether an official agreement between the diplomatic representative of this country and the corresponding official of another may have the effect of amending our statutes enacted prior to such agreement, because it was the opinion of the court that the aforementioned notes and the actions of the Director did not change any part of Sec. 76, nor abridge the period therein established. "They merely constitute an interpretation or application of said provisions insofar as Americans and Filipinos are concerned—interpretation which appears to be in accordance with law."²³

²² Rep. Act No. 165.

²³ In the *Abbot Laboratory* case, see Note 21, *supra*, it was said:

"We must assume that the U. S. Secretary of State correctly stated the American law. Was the Philippine law properly read in the reply communication? We believe it was, because sec. 76 being essentially a reciprocity measure, it is no more than logical to conclude that if priority rights are not accorded Filipinos in U. S. after Feb. 29, 1948, an American who makes application here in June 1948 can not assert nor claim that *at that time* reciprocal privileges are extended to Filipinos in his country. There is no reason to suppose that the Legislature intended to give foreigners here preferential privileges in 1948 provided that their respective countries have given to Filipinos priority rights *at any time, at some period in the past, e.g. in 1940-1941.* The law clearly speaks of reciprocal privileges, and when Filipinos receive no preferences in the U. S. or any other foreign country, there is no reciprocal privilege to consider. Reciprocity is never a one-sided affair."

D. ADJUDICATION

1. JURISDICTION

a. *Court of Industrial Relations.*

The scope of the jurisdiction of the Court of Industrial Relations may be found in Sections 1²⁴ and 4²⁵ of Commonwealth Act 103, as amended. Briefly stated, in order that the Court of Industrial Relations could acquire jurisdiction over a case, the following requisites or elements must exist: ²⁶

1. A dispute, industrial or agricultural;
2. Said dispute is causing or likely to cause a strike or lockout;
3. Said dispute arose from differences as regards wages, dismissals, lay-offs, etc. between employees and employers, and;
4. The number of employees or laborers must exceed thirty.²⁷

While Sec. 4 specifically speaks of wages, shares or compensation, and while these are the principal sources of industrial and agricultural conflicts, the authority of the C. I. R. is by no means confined to them. According to Justice Tuason:

²⁴ Section 1. "*Jurisdiction.—Judges.* There is created a Court of Industrial Relations hereinafter called the court, which shall have jurisdiction over the entire Philippines, to consider, investigate, decide and settle all questions, matters, controversies, or disputes arising between, and/or affecting employers and employees or laborers, and landlords and tenants or farm-laborers, and regulate the relations between them, subject to the provisions of this Act.

"The Court shall also have jurisdiction over cases submitted to it under the provisions of Commonwealth Act Numbered Four Hundred and sixty-one."

²⁵ Section 4. "*Strikes and Lockouts.—*The Court shall take cognizance for purposes of prevention, arbitration, decision, and settlement, of any industrial or agricultural dispute causing or likely to cause a strike or lockout, arising from differences as regards wages, shares or 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, and such industrial or agricultural dispute is submitted to the Court by the Secretary of Labor, or by any or both of the parties in the controversy. In all such cases, the Secretary of Labor, or the party or parties submitting the dispute, shall clearly and specifically state in writing the questions to be decided. Upon the submission of such a controversy or question by the Secretary of Labor, his intervention therein as authorized by law, shall cease."

²⁶ See *Sta. Mesa Slipways & Engineering Co. v. C. I. R.*, G. R. No. L-4521, prom. Aug. 18, 1952.

²⁷ To this enumeration may be added a fifth requisite, to wit, that the dispute is submitted to the Court by the Secretary of Labor or by any or both of the parties in the controversy. (See sec. 4, C. A. 103).

“‘Conditions of tenancy or employment’ (Sec. 4) and contingencies too numerous to be conveniently detailed in a statute or thought of in advance had to be met and settled. To settle disputes and prevent crippling strikes and lockouts, besides the improvement of labor standards, are the paramount objectives of the law, and such conditions and contingencies are the matters envisaged by the all-embracing provisions of the afore-quoted section.

“In consonance with these principles, sick leave, maternity leave, hospitalization and other privileges having no direct relation to wages, shares or compensation, have been regarded without dissent as proper subjects of award.”

The portion of the aforementioned Sec. 4 which requires that the “number of employees, laborers or tenants or farm-laborers involved exceeds thirty,” was construed in the cases of *Land Settlement and Development Corp. vs. Caledonia Pile Worker’s Union*²⁸ and *Sta. Mesa Slipways & Engineering Co. vs. C. I. R.*²⁹

In the *Lasedeco* case, it was held that this requirement means nothing more than that a “lesser number may not set the machinery of the C. I. R. in motion.” It does not mean that the Court’s decision, once the court has legally taken cognizance of a case, may not comprise employees and workers other than those who signed the demands or were identified with the walkout.³⁰ A construction to the contrary would “put a premium on strikes” and would be a “certain invitation to new lockouts which is the prime object of the law to prevent, and to penalize or discourage loyalty and patience on the part of workers who would expect improvement of their lot without being forced to resort to radical measures.”

In the *Sta. Mesa* case, the Supreme Court reaffirmed the doctrine laid down in prior cases³¹ to the effect that once the C. I. R. acquires jurisdiction to try a case, it retains such jurisdiction until the case is completely decided. Thus, the jurisdiction of the industrial court remains unaffected even when the number of laborers involved in a case falls below 31 because of the amicable settlement of the dispute between the employer and some of the dismissed laborers.

The Court of Industrial Relations also exercises jurisdiction over disputes arising out of landlord and tenancy relations submitted to

²⁸ G. R. No. L-4877, prom. Feb. 28, 1952.

²⁹ See note 26, *supra*.

³⁰ The case of *Parsons Hardware v. C. I. R.*, G. R. No. L-48215 and *Leyte Land Transportation v. Leyte Farmers and Laborers*, G. R. No. L-1377, were cited as authority for the view that workers involved in a dispute include other workers, unionists or not, who were presumed to be interested in the outcome of the demands or strike one way or another.

it under the provisions of C. A. 461 as amended by R. A. No. 44 and Executive Order No. 392, sec. 317.³² This does not mean, however, that the C. I. R. has jurisdiction over all forms of tenancy, or all forms of relations between landowner and tenant. The provisions of the above-cited law has been construed³³ to apply only to tenancies specially covered by existing tenancy laws, to wit, the Rice Share Tenancy Act³⁴ and the Sugar Tenancy Act.³⁵ It cannot embrace any system of tenancy for which no rules have yet been provided. Therefore, in the case of *Vibal vs. Roldan*,³⁶ it was decreed that the C. I. R. was without jurisdiction over a tenancy dispute, involving coconut lands, as no tenancy law has as yet been promulgated concerning such lands.

The old question of jurisdiction over government agencies and government owned or controlled corporations cropped up again in *Metropolitan Water District vs. C. I. R.*³⁷ It is already an established principle that the C. I. R. has jurisdiction over controversies or disputes affecting employees and laborers of government owned

³¹ *Pepsi-cola Inc. v. National Labor Union*, 46 O. G. sup. to no. 1, 130 and *Manila Hotel Employees' Association v. Manila Hotel*, 73 Phil. 374.

³² CARLOS and FERNANDO, LABOR, INDUSTRIAL AND TENANCY LAWS, (1952 ed.) p. 54.

³³ In the case of *Vibal v. Roldan*, 48 O. G. 4343, Justice Labrador cited the case of *Arciaga v. de Jesus*, 47 O. G. 3463, as follows:

"It is noteworthy that previous to the amendment introduced by Republic Act No. 44, the Department of Justice was 'charged with the duty of enforcing the Rice Share Tenancy Act'; whereas under Republic Act No. 44, this duty extends to the enforcement of 'all laws, orders, regulations relating to any system of tenancy.' (Congressman Roy) stated: 'The one special feature of those proposed amendments is to cover also the other Tenancy Act or the Sugar Tenancy Act (Act No. 4113, as amended). As it is now, no agency can enforce the rights of the parties in the Sugar Tenancy Act. Act No. 608 provides simply for the enforcement of the Rice Share Tenancy Act (Act No. 4054). This proposed measure will cover all and other tenancy acts which will be enacted.

"This explanation gives way to the unmistakable legislative intent to apply the provisions of Commonwealth Act No. 461, last amended by Republic Act No. 44, only to tenancies specially covered by tenancy laws. There have so far been enacted two tenancy statutes, namely, Rice Share Tenancy Act (Act No. 4054) and Sugar Tenancy Act (Act No. 4113). * * *

"Section 1 of Republic Act No. 44 providing that said law should be made applicable to all forms of tenancy should not be interpreted literally. The clear legislative intent is to make the law applicable to such other tenancy laws as may be enacted in the future, not to any system of tenancy for which no rules have yet been provided."

³⁴ Act No. 4054. In the cases of *Pineda v. Pingul*, G. R. No. L-5565, prom. Sept. 30, 1952 and *Gomez v. C. I. R.*, G. R. No. L-5460, prom. Sept. 30, 1952, the Supreme Court assumed jurisdiction over rice tenancy disputes.

³⁵ Act No. 4113.

³⁶ See note 33, *supra*.

³⁷ G. R. No. L-4488, prom. Aug. 27, 1952.

or controlled corporations,³⁸ but it may not assume jurisdiction over mere offices or agencies of the government, unincorporated and not possessing juridical personalities under the law, as that would be permitting a suit against the Government without its consent.³⁹

The M. W. D., which was created by Act No. 2832, as amended, has an independent juridical personality which may sue and be sued. And, Justice Paras, answering the contention of the M. W. D. that it was not engaged in agriculture or industry within the meaning of Sec. 4⁴⁰ of C. A. 103, cited *State vs. Howat*⁴¹ as authority to the effect that in determining the jurisdiction of labor courts, the term "industrial relations" refers "to affairs relating to industry and involving government departments devoted to public service." The business of providing water supply and sewerage service may for all practical purposes be likened to the industry engaged in by coal companies, gas companies, power plants, ice-plants, and the like.

The case of *Ammen Transportation Co. vs. Bicol Transportation Employees Mutual Association*⁴² was the vehicle which squarely brought before the Supreme Court for the first time, the matter of check-off.

In upholding the jurisdiction of the C. I. R. over this matter Justice Tuason cited Sec. 10, subsec. (b), Paragraph (3)⁴³ of the Minimum Wage Law (R. A. No. 602) as "a clear signal that check-off is one of the matters affecting labor-management relations which the Court of Industrial Relations may include in an award, order or decision."

In the *Ammen* case, check-off had been the subject matter of an agreement between the parties involved and had already been put into practice, the appealed order of the C. I. R. being no more than that it be continued by the Company as stipulated. The question may then arise: Does the C. I. R. have the power to allow the practice of check-off even against the will of the employer? The answer may

³⁸ *Manila Hotel Employees' Association v. Manila Hotel Co.*, 40 O. G. 4173.

³⁹ *Metran v. Paredes*, 43 O. G. 2835.

⁴⁰ See note 25, *supra*.

⁴¹ 198 Pac. 386.

⁴² G. R. No. L-4941, prom. July 25, 1952.

⁴³ Sec. 10 of Republic Act No. 602 provides:

"* * *

(b) Wages including wages which may be paid retro-actively for whatever reason shall be paid directly to the employee to whom they are due, except:

* * * *

(3) In cases where the right of the employees or his (their) union to check-off has been recognized by the employer or authorized in writing by the individual employees concerned."

be gleaned from the following paragraph taken from the majority opinion: ⁴⁴

"It may be noted that sub-paragraph (3) consists of two clauses. Our understanding of this provision, which is none too clear, is that the two clauses are independent of each other, each denoting a separate meaning. In other words, check-off may be enforced with the consent of the employer or by authority in writing by the employees. When the union and the employer agree, the attitude of the employees is immaterial. When the employees duly authorize the check-off, as provided by the last clause, the employer's consent is unnecessary and its recognition of the right is obligatory. If this were not so; if in any case the employer's conformity were essential, it would have to be concluded that the second clause is superfluous and meaningless, for the first clause already provides for such conformity as a condition precedent."

The Court of Industrial Relations also has jurisdiction to grant increase of wages when warranted by the surrounding circumstances of the case; ⁴⁵ and to issue a restraining order (writ of preliminary injunction) when it appears that a party is trying to accomplish its purpose in a manner detrimental to public interest through threats or violence.⁴⁶

Again, the C. I. R. has jurisdiction to award a money judgment.⁴⁷ Thus, it has the power to grant overtime back wages; ⁴⁸ payment of bonus; ⁴⁹ and accumulated and unused sick and vacation pay, either to a laborer himself ⁵⁰ or to his heirs.⁵¹

⁴⁴ There was, however, a vigorous dissenting opinion by Justice Montemayor, who believes that the system of check-off is a matter which should be left to the employer and employee and their union to agree upon. He is of the opinion that there is no law which compels an employer to practice and observe the system of check-off. However, he agrees with the majority opinion that where any party to an agreement or contract of check-off (between the management and employees and the union to practice check-off) violates the same, and the other party seeks redress from said violation and insists in the enforcement or performance of its terms, the Court of Industrial Relations will have jurisdiction over the case.

⁴⁵ See *Insular Sugar Refining Corp. v. Court of Industrial Relations*, G. R. No. L-4764, prom. Sept. 3, 1952.

⁴⁶ *Davao Stevedores Mutual Benefit Association v. Cia. Maritima*, G. R. No. L-3871, prom. Feb. 29, 1952.

⁴⁷ *Manila Terminal Co. v. Court of Industrial Relations*, G. R. No. L-4148, prom. July 16, 1952.

⁴⁸ *Ibid.*

⁴⁹ *Philippine Education Co. Inc. v. Court of Industrial Relations* G. R. No. L-5103, prom. Dec. 24, 1952.

⁵⁰ *Manila Railroad Co. v. Court of Industrial Relations*, G. R. No. L-4616, prom. July 31, 1952, citing *Leyte Land Transportation Co. v. Farmers-Laborers Union*, 45 O. G. 4862.

⁵¹ *Manila Railroad Co. v. Court of Industrial Relations*, see note 50, *supra*; *M. R. R. v. C. I. R.*, G. R. 5628, prom. Oct. 29, 1952.

When an employee who has been suspended or dismissed without just cause, has been ordered reinstated by the C. I. R., the court may direct the payment of his salary or wages during the time of his suspension or dismissal.⁵² The payment of such back wages, however, is left to the sound discretion of the Court. The reinstated employee is not entitled to it as a matter of right.⁵³

b. Public Service Commission

The jurisdiction granted to the Public Service Commission by Sec. 13 of C. A. 146, is general. This general jurisdiction includes, as already stated, supervision and control over the equipments and other properties of public services or utilities intended to insure and safeguard the convenience of the public.⁵⁴

One of its main functions is the granting, in proper cases of "certificates of public convenience" or "certificates of convenience and public necessity" as the case may be, "to the effect that the operation of said service and the authorization to do business will promote the public interests in a proper and suitable manner."⁵⁵

In granting these certificates, it has been a rule of long standing in this jurisdiction that preference be given to old and established operators. The Supreme Court has for years ruled that so long as the first licensee keeps and performs the terms and conditions of its license and complies with reasonable rules and regulations of the Commission and meets the reasonable demands of the public, it has more or less a vested and preferential right over another who seeks to acquire a later license to operate the same route.⁵⁶ The P. S. C. is also bound to prevent ruinous competition.⁵⁷

These rules are not absolute, however. Public convenience and necessity is the primary condition for which a public utility is author-

⁵² *Phil. Manufacturing Co. v. National Labor Union*, G. R. No. L-4507, prom. July 31, 1952; *Union of the Philippine Education Employees v. Phil. Education Co.*, G. R. No. L-4423, prom. March 31, 1952.

⁵³ *Union of the Philippine Education Employees v. Phil. Education Co.*, see note 52, *supra*.

⁵⁴ See note 16, *supra*.

⁵⁵ See Sec. 15, and 16 (a), C. A. 146.

⁵⁶ I TOLENTINO, COMMENTARIES AND JURISPRUDENCE ON THE COMMERCIAL LAWS OF THE PHILIPPINES, (6th Ed.), p. 475, citing *Manila Electric Co. vs. M. R. Mateo*, 38 O. G. 1839, July 20, 1940 and *Batangas Transportation Co. v. Orlanes*, 52 Phil. 455. See dissenting opinions of Justice Montemayor in the cases of *Interprovincial Autobus Co. v. Clarete*, G. R. No. L-4100 & 4102, prom. May 15, 1952 and *Raymundo Transportation Co. vs. Cervo*, G. R. No. L-3899, prom. May 21, 1952.

⁵⁷ *Ibid*.

ized to operate.⁵⁸ Thus, where the Commission finds that the owner of an existing ice plant has not been rendering adequate service to the people in a certain municipality, a new ice plant may be authorized to operate in said municipality to meet its inhabitant's demands for this important commodity.⁵⁹ Again, where an operator of buses either fails or neglects to make the necessary improvements or increase in services, to meet increased traffic, especially when given that opportunity, new operators should be given a chance to give the service needed by the public.⁶⁰

The mere fact, therefore, that an operator has been operating along a certain line for a long time, does not preclude the P. S. C. from granting an additional permit to operate on the same line if public necessity so demands. This is a matter for the Commission to determine. In it many factors are involved, and when they are met by an applicant, the granting of a new permit is justified.⁶¹

1952 has also seen the Supreme Court considering fairness and equity in connection with this matter. In the case of *Interprovincial Autobus Co. vs. Clarete*,⁶² Justice Paras, speaking for the majority, stated that an older operator's attitude is unfair both to the public and to other operators, when he opposes the granting of a permit for additional autotrucks, after he had failed to volunteer to apply for additional units and had thought of claiming said rights only after the appellee, aware of the increasing travelling needs of the people, filed an application for the issuance of the certificate in question.

There may also be cases where this preference cannot be granted without causing injustice to emergency operators who were forced to enter the field due to the inability of old operators to rehabilitate and resume their former service in keeping with the demands of the travelling public. This is especially true where the emergency operator had acquired the needed equipment to put its service on a pre-war level. This was the ruling in the case of *Raymundo Transportation Co. vs. Cervo*,⁶³ where it was further stated that:

⁵⁸ See note 56, *supra*.

⁵⁹ *Banaag vs. Intestate Estate of Enriquez*, G. R. No. L-4266, prom. Feb. 29, 1952, citing *Manila Electric Co. vs. Pasay Transportation Co.*, 31 O. G. 2083; *Manila Electric Co. vs. Pasay Transportation Co.*, 36 O. G. 3250; *Manila Railroad Co. vs. Parsons Hardware Co.*, 37 O. G. 1333; *Tanjuangco vs. De Borja*, O. G. Sup. Dec. 16, 1941, p. 172; *Limjuco vs. San Miguel Brewery*, O. G. Sup. Oct. 4, 1941, p. 125. See also *Raymundo Transportation Co. vs. Cervo*, see note 56, *supra*.

⁶⁰ *Banaag vs. Intestate Estate of Enriquez*, see note 56, *supra*.

⁶¹ *Bachrach Motor Co. vs. Elchico*, G. R. No. L-4315, prom. July 9, 1952.

⁶² *Raymundo Transportation Co. vs. Cervo*, see note 56, *supra*.

⁶³ See note 56, *supra*.

“* * * to deprive the appellee now of the privilege already enjoyed by him after investing money and effort for the sole purpose of giving preference to the appellant (old operator in the line) would be most unfair and unjust and cannot in equity be sanctioned by this court. Such a ruling would lead to a monopoly and this should be avoided.”

Public convenience is also the first consideration when deciding a contention of unfair and unjustified competition.⁶⁴ Competition if wholesome and constructive should be allowed because it tends to promote satisfaction and efficiency in the management and operation of the public service.⁶⁵

The Revised Administrative Code⁶⁶ provides that a municipal council shall have authority to acquire or establish municipal ferries; that the municipal authorities may either conduct said public utility upon account of the municipality or let it to a private party who is the highest and best bidder, for a period of one year, or upon the previous approval of the Provincial Board, for a longer period not exceeding five years. On the other hand, Sec. 18 of C. A. 146 grants to the P. S. C. general jurisdiction over ferries. In *Municipality of Gattaran vs. Elizaga*,⁶⁷ Justice Montemayor, reconciled these two seemingly conflicting jurisdictions.

“* * * Whether the operation of a municipal ferry may be undertaken by the municipality itself or let and given to a private party after public bidding, it should be supervised and regulated by the Public Service Commission. When a private party, winner in a public bidding conducted by the Municipal Council * * * gets the permit to operate a municipal ferry from the municipality, before he can operate, he must first obtain a certificate or permit from the Public Service Commission which upon granting it, will fix the rates to be charged by him as well as specify the kind of equipment to be used by him for the comfort, convenience and safety of the public using said ferry. Of course, it will readily be understood that in fixing the rate to be charged by the operator the amount he has paid to the municipality for the privilege to operate the ferry must be taken into account by the Public Service Commission so as to allow a reasonable margin of profit.

“The arrangement or procedure is not dissimilar to that followed in cases of a grant of electric plant franchise by a municipality under Act 667. In such a case, the municipality grants a franchise to install and operate an electric plant. Before the grantee, however, can operate he must apply to the Public Service Commission for a certificate of public convenience

⁶⁴ *Interprovincial Autobus Co. v. Clarete*, see note 56, *supra*, citing *Raymundo Transportation Co. v. Perez*, 56 Phil. 274.

⁶⁵ *Raymundo Transportation Co. v. Cervo*, see note 56, *supra*; *Banaag v. Intestate Estate of Enriquez*, see note 58, *supra*.

⁶⁶ See sections 2318-2320.

⁶⁷ See note 16, *supra*.

and necessity. The Commission fixes the rates to be charged by said grantee and specifies the equipment to be used, etc.

"Oftentimes, a ferry is used not only by the residents of a single municipality but by people from many municipalities, specially when the ferry is a continuation of a public or national highway. That may be one of the reasons for vesting the Public Service Commission with general jurisdiction over ferries. The Commission with its supervisors and technical personnel is in a better position to determine and fix reasonable rates to be charged, for the protection and benefit of residents not only of the municipality where the ferry is located but of all the towns, even provinces affected; also to specify the kind of equipment to be used, specially when motor-driven, and the manner of its operation, so as to insure maximum convenience, speed and safety for the public. In cases of newly opened lands of the public domain where the ferry is not found in any organized municipality, the Public Service Commission may find itself with original jurisdiction over said ferry, and prospective applicants may directly file their applications with it."

The P. S. C. has no power to consider and grant applications for the operation of ferries, without the previous approval and grant of the municipality within whose territorial jurisdiction the ferry is to operate. However, as stated above, in cases of newly opened lands of the public domain, the P. S. C. may find itself with original jurisdiction over said ferry, and prospective applicants may directly file their applications with it.

The P. S. C. has the power to grant a temporary permit to operate a public service whenever a case cannot be decided at once and such provisional permit is issued to meet an urgent public need.⁶⁸

In the 1951 case of *Ablaza Transportation Co. vs. Ocampo*,⁶⁹ the Supreme Court had held that where a case was only half-finished and the decision was still remote because of various motions for postponement whereby delay of the hearing had been systematically caused, and there was an urgent public need for a readjustment of a pre-war authorized service (not a new service), the granting of a temporary permit did not constitute excess of jurisdiction.

In the recent case of *Biñan Transportation Co. vs. Prieto*,⁷⁰ the Supreme Court found that these circumstances justifying the granting of a temporary permit were not present. In the *Biñan* case, there was only one postponement (delay of only 12 days). The motion for continuance appeared to have been made in good faith, "with-

⁶⁸ *Silva v. Ocampo*, G. R. No. L-5162, prom. Jan. 31, 1952, citing *Javellana v. La Paz Ice Plant & Cold Storage Co.*, 64 Phil. 893 and *Ablaza Transportation Co., Inc. v. Pampanga Bus Co., Inc.*, G. R. No. L-3563, prom. March 29, 1951; *Biñan Transportation v. Prieto*, G. R. No. L-5139, prom. July 25, 1952.

⁶⁹ See note 68, *supra*

⁷⁰ See note 68, *supra*.

out any indication that a systematic blocking of the ordinary course of the investigation was contemplated." Furthermore, it appeared that the provisional permit granted was for an almost entirely new service, and not a mere readjustment of an existing public service.

c. Modification of the Orders of the C. I. R. & P. S. C.

Both the C. I. R. and the P. S. C. have the power to amend, modify or revoke their orders or decisions in proper cases.

The C. I. R. derives this power from Secs. 7 and 17 of C. A. 103.⁷¹ And, according to Justice Bautista Angelo, in the case of *Church & Co. vs. La Union Labor Union*:⁷²

"* * * The clear object of these provisions is undoubtedly to give the court a continuing control over the case, in the interest of management and labor, as long as it remains under its control and jurisdiction in order to accord substantial justice to the parties, in line with the liberal policy of the law which enjoins that 'the Court shall act according to justice and equity and the substantial merits of the case, without regard to technicality or legal forms and 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.'"

The cases of *Salvador vs. P. S. C.*,⁷³ *Ariaga vs. Javellana*,⁷⁴ and *Cacho vs. Javellana*⁷⁵ are authorities to the effect that while it is true that the Public Service Commission has the power to modify its decision on any case after a hearing on a motion for reconsideration, "such power is not unlimited but is subject to the fundamental rule that whatever modification is made must be based on the evidence presented in the case."

The above-cited cases also held that when the Commission grants an application for a certificate of public convenience, and the grantee, relying on such decision, makes huge investments by acquiring the necessary site for the plant, buildings and machineries to complete the factory, and which investment was in line with the unanimous decision of the Commission, said Commission cannot modify the decision in the sense of requiring the applicant to move his plant to a place other than that stated in the decision. Such a modification would be unfair and unjust and would be tantamount to a punishment which the grantee does not deserve.

⁷¹ *San Miguel Brewery, Inc. v. Court of Industrial Relations*, G. R. No. L-4634, prom. April 28, 1952; *Luzon Brokerage Co. v. Luzon Labor Union*, G. R. No. L-4954, prom. Sept. 29, 1952.

⁷² G. R. No. L-4393, prom. April 28, 1952.

⁷³ G. R. No. L-4841, prom. Dec. 17, 1952.

⁷⁴ G. R. No. L-4821, prom. Dec. 17, 1952.

⁷⁵ G. R. No. L-4829, prom. Dec. 17, 1952.

2. EVIDENCE

In the case of *Manila Railroad Company vs. C. I. R.*,⁷⁶ Tomas Mendoza was summarily dismissed and three others were fined for the loss of certain articles from a compound of a subsidiary of the Railroad Company. There was no direct evidence that they were guilty of the crime, but the circumstantial evidence against them "was damning." The Company conducted various investigations over the loss. These investigations and reinvestigations were made at the request of said four men and wherein they were represented by counsel. Neither these men claimed that the investigations were conducted improperly or that the findings and decision of the Company was illegal or arbitrary. The C. I. R., however, ruled that there was no evidence under which to hold these four men responsible for the loss as nobody saw them steal the articles in question. The C. I. R. therefore, ordered the Company to pay Mendoza his salary from the time he was dismissed to the time he was subsequently re-employed and for the refund of the fines paid by the other three. To support this conclusion, the C. I. R. stated that the Corporate Counsel for the Company was convinced of the innocence of Mendoza, since he did not file any criminal charge against Mendoza.

The Supreme Court on appeal, declared that the C. I. R. had committed a grave abuse of discretion in disregarding and ignoring completely the various investigations conducted by the Company. As to the failure of the Corporate Counsel to file criminal charges, the S. C. said that this was not because said Counsel was convinced of the innocence of Mendoza, but because he believed that there was not sufficient evidence to support a criminal conviction. Justice Montemayor declared that:

"To secure conviction in a criminal case, guilt must be established beyond reasonable doubt. In an administrative case, that degree of proof is not necessary. The C.I.R. in exonerating Mendoza and his companions said that no one saw them steal the articles lost. But sometimes, even in criminal cases, circumstantial evidence is competent, even sufficient. This is more so in administrative cases. When a company after due and fair investigation is convinced that an employee is dishonest and disloyal and it has lost confidence in him, said company may not be compelled to retain him in its employ."⁷⁷

The case of *Bachrach Motor Co. vs. Elchico*,⁷⁸ is authority to the effect that the best evidence of the volume of traffic between two

⁷⁶ See note 50, *supra*.

⁷⁷ Citing *Manila Trading & Supply Co. v. Zulueta*, 69 Phil. 485.

⁷⁸ See note 60, *supra*.

points is the checking of recording of the actual number of passengers and amount of freight passing between them every day during a certain period. This checking should be conducted in strategic points along the line in question, by checkers appointed by the P. S. C. who are assisted by representatives of the parties. Such evidence is much better than the mere observations and testimony of passengers, which because of their inaccuracy, casualness, and even partiality, cannot be very reliable.

3. PROCEDURE IN ADMINISTRATIVE AGENCIES

The Presiding Judge of the C. I. R. has the power to assign an amended motion to a Branch other than the one which originally tried and disposed of the case.⁷⁹ The authority for this view is Sec. 1 of C. A. 103, as amended, which provides that the Judges shall act on such matters as the Presiding Judge may designate, and each of them shall have the power to preside over the hearing of cases assigned to him and to render decisions thereon. It is already an established doctrine that a court, though composed of several branches, is deemed to be a totality.⁸⁰

The provisions of the Rules of Court⁸¹ which discourage multiplicity of suits or the splitting up of a cause of action, does not apply to proceedings in the C. I. R. Therefore, in the case of *Philippine Education Co. vs. C. I. R.*,⁸² it was held that a 17-point demand for arbitration and adjudication which failed to include a demand for the payment of bonus, cannot be pleaded in abatement of a motion praying for the payment of said bonus.

In addition to its power to reopen any question involved in a decision at any time during its effectiveness,⁸³ the C. I. R. has all inherent powers of a court of justice, provided in Sec. 5⁸⁴ of Rule 124 of the Rules of Court, among which is to compel obedience to its judgments, orders and process, as well as the power to punish direct

⁷⁹ *San Miguel Brewery, Inc. v. Court of Industrial Relations*, see note 71, *supra*.

⁸⁰ *Ibid*.

⁸¹ See secs. 3 and 4, Rule 2, Rules of Court.

⁸² See note 49, *supra*.

⁸³ Sec. 17, C. A. 103.

⁸⁴ This section provides:

"Inherent powers of courts. Every court shall have power:

"(a) To preserve and enforce order in its immediate presence;

"(b) To enforce order in proceeding before it, or before a person or persons empowered to conduct a judicial investigation under its authority;

"(c) To compel obedience to its judgments, orders, and process, and to the lawful orders of a judge out of court, in a case pending therein;

"(d) To control, in furtherance of justice, the conduct of its ministerial officers,

and indirect contempts as provided in Rule 64.⁸⁵ Furthermore, section 23 of C. A. 103 expressly specifies that in case of non-compliance with any award, order or decision of the Court of Industrial Relations after it has become final, conclusive and executory, the judgment may be enforced by a writ of execution or any other remedy provided by law with respect to enforcement and execution of orders, decisions, or judgments of the Court of First Instance.⁸⁶

Sec. 20 of C. A. 103, as amended, which enjoins the C. I. R. to proceed in the investigation, determination and decision of the controversies according to justice and equity without regard to technicalities or legal formalities, applies to procedure and appreciation of evidence as well as to the merits of the case.⁸⁷

This year, the Supreme Court, in the cases of *Raymundo vs. Transportation Co. vs. Cervo*⁸⁸ and *Enriquez & Co. vs. Ortega*⁸⁹ reiterated the doctrine enunciated in *Silva vs. Cabrera*.⁹⁰ All the three above-cited cases dealt with objections to the practice then prevailing in the P. S. C. of authorizing Atty. Antonio Aspillera, chief of the legal division of the Commission, to receive the evidence of both parties, which delegation was claimed could not be legally done in contested cases.

The *Enriquez* case held:

"In the *Cabrera* case, it is true, we held that 'under the provisions of Section 3 of the Public Service Act, as amended by Republic Act 178, the reception of evidence in a contested case may be delegated only to one of the Commissioners and to no one else, it being understood that such reception of evidence consists in conducting hearings, receiving evidence, oral and documentary, passing upon the relevancy and competency of the same, ruling upon the petitions and objections that come up in the course of the

and of all other persons in any manner connected with a case before it, in every matter appertaining thereto;

"(e) To compel the attendance of persons to testify in a case pending therein;

"(f) To administer or cause to be administered oaths in a case pending therein, and in all other cases where it may be necessary in the exercise of its powers;

"(g) To amend and control its process and orders so as to make them conformable to law and justice;

"(h) To authorize a copy of a lost or destroyed pleading or other paper to be filed and used instead of the original and to restore and supply deficiencies in its records and proceedings."

⁸⁵ See also sec. 6, C. A. No. 103.

⁸⁶ *San Miguel Brewery, Inc. v. Court of Industrial Relations*, see note 71, *supra*.

⁸⁷ *Union of the Philippine Education Employees v. Phil. Education Co.*, see note 52, *supra*.

⁸⁸ See note 56, *supra*.

⁸⁹ G. R. No. L-4865, prom. Dec. 22, 1952.

⁹⁰ G. R. No. L-3629.

hearings, and receiving and rejecting evidence in accordance with said rulings,' and that if this procedure is not followed the proceedings were null and void and should be disregarded."

This requirement is, however, merely procedural in nature and as such could be waived by a party. A timely objection must be interposed to this procedure, a timely objection being one raised at the beginning of the hearing or investigation before the person assigned to receive the evidence, and not after he has completed the investigation, otherwise, it comes late and should be disregarded⁹¹

It need hardly be stated, therefore, that such a question cannot be raised by a party for the first time on appeal⁹²

When the objection is timely and the Supreme Court declares such proceedings to be null and void, the Commission, must receive the evidence of the parties *de novo*, unless the parties agree to re-submit the evidence already presented and taken down, with such modifications and under such conditions as they may agree upon, including such other evidence which they may wish to present.⁹³ The rationale of this rule being:⁹⁴

"* * * to make the Commission, or any of the Commissioners who may be authorized for this purpose, to try the case, or receive the evidence itself, as the law requires, so that it may have the necessary opportunity for observation and appreciation of the evidence to enable it to reach an accurate and intelligent conclusion. Mere re-submission of the evidence already presented would not meet this compelling objective, the only exception being when the opposing parties agree to such re-submission. This is a privilege that they can exercise or waive in the use of their discretion."

Under Sec. 3 of R. A. 723,⁹⁵ which amended the Public Service Act, however, the Commission may now by proper order, "authorize any of the attorneys of the legal division or division chiefs of the Commission, if they are lawyers, to hear and investigate any case filed with the Commission and in connection therewith to receive such evidence as may be material thereto. The person so authorized, shall submit the evidence received by him to the Commission to enable it to render its decision." Said R. A. 723 took effect on June 6, 1952.⁹⁶

⁹¹ See note 89, *supra*.

⁹² *Raymundo Transportation v. Cervo*, see note 56, *supra*.

⁹³ *Silva v. Ocampo*, see note 68, *supra*.

⁹⁴ *Ibid*.

⁹⁵ Republic Act 723 is entitled "An Act to Amend Sections Three, Four and Thirty-two of Commonwealth Act One Hundred and Forty-six, as Amended Otherwise Known as the Public Service Act."

Section 3 of this Act amends section thirty-two of the Public Service Act.

⁹⁶ Sec. 6 provides:

The chief of the legal division of the P. S. C., who received the evidence in the *Silva*,⁹⁷ *Raymundo*,⁹⁸ and *Enriquez*⁹⁹ cases may now, therefore, be legally authorized by the Commission to receive evidence even in contested cases.

It is submitted, however, that the rulings laid down in these cases may still be applied when the authority to receive evidence is delegated to a person other than those mentioned in Sec. 3 of R. A. 723.

II. JUDICIAL REVIEW

A. PRIMARY JURISDICTION, RIPENESS & EXHAUSTION OF REMEDIES.

With the growth of the field of administrative law, the overlapping of jurisdictions of certain administrative agencies and of the regular courts of justice has been inevitable. This year, the Supreme Court had to cope with the problem several times, and attempted to reconcile these conflicting jurisdiction whenever possible.

Cruz vs. Capalungan,¹⁰⁰ raised the question of jurisdiction over cases involving the dispossession of tenants by landlords. C. A. No. 461, as amended, entitled "An Act to Regulate the Relation between Landowner and Tenant and to Provide for Compulsory Arbitration of any Controversy Arising Between Them," provides that in all cases where land is held under any system of tenancy, the tenant shall not be dispossessed of the land cultivated by him except for any of the causes mentioned in Sec. 19, Act 4054, or for any just cause, and without the approval of a representative of the Department of Justice.

The Supreme Court relied on the case of *Ojo vs. Jamito*,¹⁰¹ which held that in granting special jurisdiction to the Department of Justice to determine cases in which a tenant may be dispossessed by the landlord, the provision "must be construed to have taken that jurisdiction out of the general jurisdiction of the C. F. I."

An action, therefore, brought for the express purpose of rescinding a tenancy contract, which if successful, would result in excluding the tenants from the lands which they have a right to till under the contract, falls within the purview of the aforementioned statute even when damages are also asked and some question as to water right is said to be involved.

"This Act shall take effect on its approval."

"Approved June 6, 1952."

⁹⁷ See notes 68 and 90, *supra*.

⁹⁸ See note 56, *supra*.

⁹⁹ See note 89, *supra*.

¹⁰⁰ G. R. No. L-4206, prom. Jan. 31, 1952.

¹⁰¹ 46 O. G. Sup. No. 11, 216.

In *Pitargue vs. Sorilla*,¹⁰² the Supreme Court was confronted with the following questions: Did the Legislature intend, when it vested the power and authority to alienate and dispose of the public lands in the Lands Department, to exclude the court from entertaining the possessory action of forcible entry between rival claimants or occupants of any land before award thereof to any of the parties? Did Congress intend that the lands applied for, or all public lands for that matter, be removed from the jurisdiction of the Judicial Branch of the Government, so that any troubles arising therefrom, or any breaches of the peace or disorders caused by rival claimants, could be inquired into only by the Lands Department to the exclusion of the courts?

Justice Labrador wrote:

"The answer to this question seems to us evident. The Lands Department does not have the means to police public lands; neither does it have the means to prevent disorders arising therefrom, or contain breaches of the peace among settlers; or to pass promptly upon conflicts of possession. Then its power is clearly limited to *disposition and alienation*, and while it may decide conflicts of possession in order to make proper award, the settlement of conflicts of possession which is recognized in the courts herein has another ultimate purpose, i.e., the protection of actual possessors and occupants with a view to the prevention of breaches of the peace. The power to dispose and alienate could not have been intended to include the power to prevent or settle disorders or breaches of the peace among rival settlers or claimants prior to the final award. As to this, therefore, the corresponding branches of the Government must continue to exercise power and jurisdiction with the limits of their respective functions. The vesting of the Lands Department with authority to administer, dispose, and alienate public lands, therefore, must not be understood as depriving the other branches of the Government of the exercise of their respective functions or powers thereon, such as the authority to stop disorders and quell breaches of the peace by the police, and the authority on the part of the courts to take jurisdiction over possessory actions arising therefrom not involving, directly or indirectly, alienation and disposition."

The attention of the Court was called to the principle enunciated in American courts to the effects that courts have no jurisdiction to determine the rights of claimants to public lands, and that until the disposition of the land had passed from the control of the Federal Government, the courts will not interfere with the administration of matters concerning the same.¹⁰³

Justice Labrador said that the Court had no quarrel with this principle. The learned Justice said that there was a distinction be-

¹⁰² G. R. No. L-4302, prom. Sept. 17, 1952.

¹⁰³ *Ibid.*, citing C. J. 1093-1094.

tween the determination of the respective rights of rival claimants to public lands and the determination of who has the actual physical possession or occupation with a view to protecting the same and preventing disorder and breaches of the peace. A judgment of the court ordering restitution of the possession of a parcel of land to the actual occupant, who has been deprived thereof by another through the use of force or other illegal means, can never be prejudicial interference with the disposition or alienation of public land.

The Supreme Court also rejected the contention that regular judicial tribunals could not rule upon an issue of amnesty unless it is first resolved by a Guerrilla Amnesty Commission. It was contended in the case of *People vs. Macadaeg*,¹⁰⁴ that these administrative bodies were merely acting as arms of the executive in carrying out the purposes of the amnesty proclamation, which is but a form of executive clemency. The Supreme Court declared that while it is not denied that the cognizance of *applications* for amnesty is vested in these commissions as mere screening bodies, there is nothing to support the contention that the authority to decide *any claim* for amnesty is to be exercised by the aforesaid commissions alone, to the exclusion of the courts.

Any one charged before the courts may claim amnesty as a defense, waive the filing of an application therefore, and submit evidence thereof in the trial of his case.

"The only sensible interpretation of the law is that while all *applications* should be passed upon by commissions, an accused may, instead of filing an application, choose the alternative remedy of just raising the issue in a court of justice in the trial of his case, and if this second alternative is chosen, the applicant should be declared estopped from contesting the decision, as well as the authority of the court that adversely passed upon his claim."

The case of *Ang Tuan Kai and Co. vs. Import Control Commission*¹⁰⁵ may be cited as authority to the effect that special civil actions against administrative offices should not be entertained if superior administrative officers could grant relief. In that case, a petition for certiorari and mandamus against the Import Control Commissioner to allow the importation of certain goods, was denied, because the petitioner had a plain and adequate remedy which is appeal to the President.

¹⁰⁴ G. R. No. L-4316, prom. May 28, 1952.

¹⁰⁵ G. R. No. L-4427, prom. April 21, 1952.

B. FORMS.

Ordinarily, a party aggrieved by a decision, order or award of the C. I. R., may appeal by certiorari to the Supreme Court.¹⁰⁶ But, when the C. I. R. decides a question of fact with grave abuse of discretion¹⁰⁷ or acts without or in excess of its jurisdiction,¹⁰⁸ a special civil action of certiorari¹⁰⁹ filed with the Supreme Court is the proper remedy, not appeal by certiorari under Rule 44 of the Rules of Court.

In *Vibal vs. Roldan*,¹¹⁰ however, the writ of prohibition was employed and granted, when the C. I. R. erroneously denied a motion to dismiss on the ground of lack of jurisdiction.

There are two remedies available against orders or decisions of the P. S. C., namely a petition for review and petition for certiorari for want or in excess of jurisdiction, or for grave abuse of discretion.¹¹¹

A decision of the Director of Patents, disallowing a patent application, may be appealed to the Supreme Court by a petition for review.¹¹²

When a temporary registration permit of a labor union is revoked, the proper remedy for the redress of the union's grievance is not certiorari, but mandamus. Such was the theory advanced by Justice Tuason in the case of *Association of Beverage Employees vs. Figueras*.¹¹³ The learned Justice believed that the union's remedy was not to revive or give effect to the cancelled registration, since that would expire very soon anyway, but one to compel the Secretary of Labor to allow them registration and permission to operate; an action which would bring into the open the question of the sufficiency of the grounds advanced for excluding them from the exercise and enjoyment of the rights created by C. A. 213.

C. SCOPE OF REVIEW.

1. *What can be reviewed.*

When the facts involved in a proceedings for review are not disputed, and the only issue is whether the C. I. R. abused its dis-

¹⁰⁶ See sec. 15, C. A. 103 and sec. 1, Rule 44, Rules of Court.

¹⁰⁷ I MORAN, COMMENTS ON THE RULES OF COURT (3rd ed.), p. 845, citing *Manila Trading & Supply Co. v. Manila Trading Laborers' Association*, G. R. No. L-2179, prom. April 12, 1949.

¹⁰⁸ See sec. 1, Rule 67, Rules of Court.

¹⁰⁹ *Ibid.*

¹¹⁰ See note 33, *supra*.

¹¹¹ I MORAN, *op. cit.*, 838-839.

¹¹² *Abbott Laboratories v. Agrava*, G. R. No. L-4234, prom. May 21, 1952. See secs. 61 and 63 of R. A. 165.

¹¹³ See note 15, *supra*.

cretion in issuing the order appealed from, it is an issue of law and therefore cognizable by the Supreme Court.¹¹⁴ And, although findings on the weight of evidence by the C. I. R. are conclusive, findings unsupported by substantial or credible proof are not binding on the reviewing court.¹¹⁵

Under Sec. 202-c of R. A. 447, the Insurance Commissioner may permit a foreign insurer to withdraw and get back the securities it had deposited for the benefit of policy-holders when he finds that such foreign insurer "has no outstanding liabilities to residents of the Philippines." However, even granting that upon issuing such permit, the Insurance Commissioner was absolutely convinced that the insurer had no such liabilities, there is nothing in the law to make his findings conclusive upon the courts. They could not be, because they are based only upon the examination of the books and records of the withdrawing company. This was the decision in the case of *Scottish Union & National Insurance Co. vs. Macadaeg*.¹¹⁶

2. Conclusiveness of Findings of Administrative Agencies.

Findings on the weight of evidence by the C. I. R., when supported by substantial or credible proof are binding on the reviewing court.¹¹⁷ The finding of the labor court that there is no sufficient cause for the removal of a laborer is a finding conclusive on the Supreme Court.¹¹⁸

The principle of *Res Judicata* applies to decisions of the C. I. R. Thus, when a petitioner fails to appeal from the decision of the Court of Industrial Relations in due time, and the decision becomes final and executory, the Supreme Court is no longer in a position, nor does it have the right, to consider any of those matters which had been finally adjudged by the labor court.¹¹⁹

Findings of fact of the Public Service Commission, when there is sufficient evidence to support it, is conclusive on the Supreme Court.¹²⁰ The Supreme Court is not required to examine the proof *de novo* and determine for itself whether or not the preponderance

¹¹⁴ *Manila Railroad Co. v. Court of Industrial Relations*, G. R. No. 4329, prom. Aug. 21, 1952.

¹¹⁵ *Union of Philippine Education Employees vs. Philippine Education Co.*, see note 52, *supra*.

¹¹⁶ G. R. No. L-5717 and L-5751-L-5756, prom. Aug. 30, 1952.

¹¹⁷ *Union of the Philippine Education Employees v. Philippine Education Co.*, see note 52, *supra*.

¹¹⁸ *Luzon Brokerage Co. v. Luzon Labor Union*, see note 71, *supra*.

¹¹⁹ See note 72, *supra*.

¹²⁰ *Interprovincial Autobus Co. v. Clarete*, see note 56, *supra*; *Raymundo Transportation Co. v. Cervo*, see note 56, *supra* and *Banaag v. Intestate Estate of Enriquez*,

of evidence really justified the order or decision rendered by the Commission. The only function of the Supreme Court is to determine whether or not there is evidence before the Commission upon which its order or decision might reasonably be based, or whether the same is without the jurisdiction of the Public Service Commission or contrary to law.¹²¹

Whether public necessity and convenience warrant the putting up of additional service over the opposition of old operators, is a question of fact which the P. S. C. can conclusively determine, so long as there is reasonable evidence to support such findings.¹²²

Justice Montemayor, in his vigorous dissenting opinions in the *Interbus*¹²³ and *Raymundo Transportation*¹²⁴ cases, cited a long line of cases in which, he claims, the Supreme Court "did not hesitate to reverse the Public Service Commission not only when the Commission violated the policy of protecting investments of old operators by preventing ruinous competition, but also on question of fact as to the necessity of increased services."

3. Finality of Decisions of the Supreme Court.

The Supreme Court showed some judicial jealousy regarding the effect of its final judgments on administrative agencies, (which we believe was justified) in the cases of *Rovero vs. Amparo*¹²⁵ and *People vs. Macadaeg*.¹²⁶

In the *Rovero* case, the Collector of Customs and the Secretary of Finance, attempted to reduce a fine imposed by the Collector of Customs, after the Supreme Court on appeal and in a final decision had sanctioned said fine.

The Court, in declaring that these officials did not have such power, said that the jurisdiction of Customs officials over administrative cases, involving seizures, appraisals, forfeitures, and fines imposed, ends with the appeal of their decisions to the courts, and the

see note 58, *supra*, citing *Alcosan Transportation Co. v. Public Service Commission*, 36 O. G. 2193; *Ampil v. Public Service Commission*, 59 Phil. 586, *Gilles v. Halili*, G. R. No. 45398, *Bulacan Bus Co. v. Enriquez*, G. R. No. 46055; *Cebu Autobus Co. v. Bisaya Land Transportation Co.*, 37 O. G. 86.

¹²¹ See dissenting opinion of Justice Paras in *Bachrach Motor Co. v. Elchico*, see note 60, *supra*, citing I MORAN, *op. cit.*, p. 840; *Zamboanga Transportation Co. Inc. v. Fargas*, see note 16, *supra*.

¹²² See notes 116 and 120, *supra*.

¹²³ See note 56, *supra*.

¹²⁴ See note 56, *supra*.

¹²⁵ See note 19, *supra*.

¹²⁶ See note 104, *supra*.

final judgments of said courts. Thereafter, the remaining function of said officials is to carry out the terms of said final court decisions, and in so doing, naturally guarding and protecting the interests of the Government they represent. The power of the Commissioner of Customs under Sec. 1369 of the Revised Administrative Code, to compromise any case or proceeding arising under the customs law, was held to refer only to cases pending in his department. It cannot refer to cases appealed to the courts and finally decided by them.

The *Macadaeg* case, enunciates a similar ruling. In that case, an action of prohibition was filed against the Seventh Guerrilla Amnesty Commission to prevent it from assuming jurisdiction over a petition for amnesty filed by one Antonio Guillermo had already been convicted and sentenced by the Supreme Court for murder.¹²⁷ He had submitted evidence on amnesty in the lower court and had raised that issue on appeal. The Supreme Court, in its judgment of conviction, expressly ruled that said Guillermo was not entitled to the benefits of amnesty because the murders for which he was convicted were committed "not in the furtherance of the resistance movement but in the course of a fratricidal strife between two rival guerrilla units."

The question now was whether he could raise this issue again before the Guerrilla Amnesty Commission, and thus have this administrative body reverse or change the findings of the Supreme Court.

Justice Labrador, answered this question as follows:

"Under the circumstances of the recent case, we hold that he should no longer be permitted to do so in view of 'the general rule common to all civilized systems of jurisprudence that the solemn and deliberate sentence of the law, pronounced by its appointed organs, upon a disputed fact or state of facts, should be regarded as final and conclusive determination of the question litigated, and should forever set the controversy at rest. Indeed it has been well said that this maxim is more than a rule of law, more even than an important principle of public policy; and that it is a fundamental concept in the organization of every jural society.'" ¹²⁸

These two cases (*Rovero* and *Macadaeg*) may be regarded as a warning to administrative agencies not to tamper with a final judgment of the Supreme Court.¹²⁹ Previously, in the case of *Posas vs. Toledo Transportation Co., Inc.*,¹³⁰ the Public Service Commission was similarly rebuked.

¹²⁷ G. R. No. L-2188, prom. May 19, 1950.

¹²⁸ *Peñalosa v. Tuason*, 22 Phil. 303; sec. 44, Rule 37, Rules of Court.

¹²⁹ See comments on the *Rovero* case, 27 Phil. L. J. 762, 765.

¹³⁰ 58 Phil. 390.

It cannot be said, however, that such a prohibition is an attempt to discriminate against administrative agencies. Courts of First Instance, too, have been constantly reminded that they have no power to alter, modify or revoke decisions of the highest court of the land.¹³¹ The reason for this rule is that if such inferior tribunals were permitted to do so, there would be an endless circle of appeals and there would never be an end to litigation. The interest of the parties and the public requires that litigations be definitely settled by the highest tribunal of the nation.¹³²

¹³¹ *Viquiera v. Baraña*, 44 O. G. No. 10, 3824. Also see *Amor v. Jugo*, 44 O. G. No. 1, 60, citing *Shioji v. Harvey*, 43 Phil. 333; *Cabigao v. Del Rosario*, 44 Phil. 182; *Wolfson v. Del Rosario*, 46 Phil. 41; *Philippine Trust Co. v. Santamaria*, 54 Phil. 463.

¹³² *Viquiera v. Baraña*, see note 131, *supra*.