1953 SURVEY OF ADMINISTRATIVE LAW

ERLINDA VILLATUYA AND CORAZON BARRION *

Perhaps the most striking device yet invented for the effectuation of governmental policies is the administrative commission. Before the administrative process became widely used, state intervention was in the form of specific legislative directions. By pressure of experience, legislative regulations of economic and social activities have turned to administrative instruments.[1] Various industries and occupations, complex in character and with manifold internal problems, have from time to time come to assume such significance in our national life that a measure of social control of them has become essential.[2] The answer to these modern complexities can be readily supplied by the creation of administrative agencies.[3]

Considering that the administrative functions deal with rule-making and adjudication of conflicting claims, it is not surprising why the growth of administrative agencies has made it impracticable for the operation of a very rigid and absolute separation of powers and necessitated some sort of overlapping of governmental functions.[4] This rapid development of administrative law has thus created what appears to be a confusion of powers.[5] One of the difficult problems posed is whether they should enjoy a like independence as the Judiciary in deciding cases brought before it.[6] The recognition of a wide margin for judicial discretion is a limitation on the independence of administrative tribunals.[7] Courts are not unaware of their power of review. In proper cases, they have not hesitated to substitute their judgment for that of the agencies.

This survey attempts to show what the Supreme Court in 1953 deemed proper for administrative determination, and within what

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[1] Frankfurter, *The Task of Administrative Law* (1927), in 4 *Selected Essays in Constitutional Law* 4 (1938).

[2] GELLHORN, ADMINISTRATIVE LAW, CASES AND COMMENTS, 2 (1947).

[3] According to Justice Jose P. Laurel in *Pangasinan Transportation Co. v. PSC*, 40 O.G. 8th Sup. 57, "the growing complexity of modern life, the multiplication of the subjects of governmental regulation and the increased difficulty of administering the laws," call for the creation of more administrative agencies.

[4] LAUREL, ADMINISTRATIVE LAW AND PRACTICE (1932), p. 8.

[5] PENNOCK, ADMINISTRATION AND THE RULE OF LAW, p. 2.

[6] DAVIS, CASES ON ADMINISTRATIVE LAW, p. 60 citing Vandervilt, A. T., *The Place of Administrative Tribunal in Our Legal System*, p. 57.

[7] DAVIS, *op. cit.*, p. 926.

sphere it asserted its jurisdiction jealously guarding what it considers its exclusive prerogative.

I. POWERS

A. ADJUDICATION

1. *Court of Industrial Relations*

Before the Court of Industrial Relations can act, the law lays down certain jurisdictional requirements to be complied with. Substantially, these elements are:

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 from kages, dismissals, layoffs, etc. between employees and employees;
4. The number of employees or laborers must exceed 30.[8]

The Supreme Court had occasion to apply this rule in the case of *L. R. Aguinaldo and Co., Inc., v. National Labor Union,*[9] where it held that "before respondent court can have jurisdiction to decide a dispute, it is necessary that the dispute involves more than thirty employees." The petition was originally filed by seven members of the National Labor Union. A petition to intervene by the Aguinaldo Employees Association composed of 26 members was granted. Subsequently these 26 employees manifested to the respondent court that they had no demands against the company and withdrew from the case. The company then filed a motion to dismiss, which was granted. After reconsidering the case, the respondent court revoked its order and declared that it had jurisdiction. The Supreme Court declared that the

> "respondent court has no jurisdiction to take cognizance of the demands that affect only 7 employees. Since the 26 employees of the company have manifested in writing that they have no demands against their employer, whatever orders the industrial court would issue would not affect them."

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[8] The powers of the Court of Industrial Relations suffered a tremendous blow with the enactment of R.A. No. 875. The major effects of the Act No. 875 were to diminish the Court's power of compulsory arbitration, limiting the same to labor disputes indispensable to the national interests, and to lay heavy emphasis on voluntary arbitration through collective bargaining.

Sec. 10 of R. R. No. 875 provides: "When in the opinion of the President of the Philippines there exists a labor dispute in an industry indispensable to the national interest and when such labor dispute is certified by the President to the CIR, said Court may cause to be issued a restraining order forbidding the employees to strike or the employer to lockout the employees, pending an investigation by the Court of Industrial Relations, and if no other solution to the dispute is found, the court may issue an order fixing the terms and conditions of employment."

[9] G. R. No. L-5402, Dec. 29, 1953.

For the fulfillment of this jurisdictional requirement, the Court of Industrial Relations is clothed with the power "to pierce the veil of corporate fiction," and act on the demands of the combined employees of two apparently distinct corporations, in appropriate cases. This was the ruling in the case of *La Campana Coffee Factory v. Kaisahan ng Mga Manggagawa sa La Campana and CIR.*[10] In this case the 66 members of the Kaisahan, all of them workers of both La Campana Gaugau and La Campana Coffee Factory (owned by the same person Tan Tong), presented a demand for higher wages and more privileges. The demand was addressed to the La Campana Starch and Coffee Factory. Attept at reconciliation was fruitless and the case was certified to the CIR. The company filed a motion to dismiss alleging among others that the Coffee Factory had only 14 employees and therefore the CIR had no jurisdiction to try the case against it. The CIR denied the motion, hence this petition of certiorari. In sustaining the respondent court, the Supreme Court held:

> "This contention (that the industrial court has no jurisdiction to try the case as against the Coffee Factory because the latter has allegedly only 14 employees) loses force when it is noted that, as found by the industrial court, and this finding is conclusive upon us, La Campana Gaugau and Coffee factories are operating under one single management, that is as one business though with two trade names. True, the Coffee Factory is a corporation and by legal fiction an entity existing separate and apart from the persons composing it, that is, Tan Tong and his family. But it is settled that this fiction of law, which has been introduced as a matter of convenience and to subserve the end of justice cannot be invoked to further an end subversive of that purpose."

Flowing from its power to settle labor disputes, to fix the amount of salaries or wages to be paid to laborers and employees, to determine their living conditions, is the power of the CIR not only to determine the minimum wage that the employer should pay its employees, but also to grant them sick leave and vacation leave with pay without any express legal provisions. It is also within the discretion of the Industrial Court to grant a month's pay upon separation from service without just cause and without notice, provided this discretion is not abused.[11]

The jurisdiction and authority of the CIR to order a general increase in salaries has been affirmed in the case of *Philippine Edu-*

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[10] G. R. No. L-5677, May 25, 1953.

[11] *Manila Trading Supply Co. v. Manila Trading Labor Association*, G. R. No. L-5783, Many 29, 1953.

cation Co. v. CIR and NLU.[12] As to the source of this power, Justice Tuazon has this to say:

> "There can be no doubt about the propriety of the action of the CIR in taking into account the 'high cost of living as a factor for determining the reasonableness of any salary or wage raise' since that court is impliedly empowered to do so under section 20 of C.A. No. 103 which provides that 'in the hearing, investigating and determination of any question or controversy and in exercising any duties and power under this Act, the Court shall act according to justice and equity and substantial merits of the case, without regard to technicalities or legal forms'; not to mention section 5 which provides in connection with minimum wage for a given industry or in a given locality, that the court shall fix the same rate that 'would give the working men a just compensation for their labor and an adequate income to meet the essential necessities of civilized life and at the same time allow the capital a fair return on its investments.' It cannot be supposed that the CIR is powerless to adopt the latter criterion simply because it is called upon to fix a minimum wage to be paid by a specific employer, and not by all employers engaged in the transportation business."

However, the CIR has no power to order payment to laborers of wages corresponding to days they were absent from work while in attendance at the hearings conducted by the Court in settling labor disputes. The Supreme Court, however, qualified this rule to recognize the CIR's power to order such payment when it is the employer or management who has initiated the dispute.[13] The CIR, moreever, cannot order payment of salary during suspension if the suspension of the employee was fully warranted.

It has also been held that the CIR may compel an employer to "check off" union dues from the wages of his employees when the employer has been authorized to do so by the employees.[14] It may entertain a motion for reconsideration[15] upon an application by an interested party for the reopening of a question involved in the decision under Section 17 of the Court of Industrial Relations Act.[16]

Jurisdiction once acquired is retained until the case is completely disposed of. Authority for this rule is the case of *La Campana.*[17]

[12] G.R. No. L-5679, Nov. 28, 1953.

[13] *Heilbronn v. N. L. U.*, G. R. No. L-1521, Jan. 30, 1953; *Manila Trading and Surety Co. v. Manila Trading Labor Association*, G. R. No. L-5062, April 29, 1953.

[14] *Manila Trading and Supply v. Manila Trading Labor Association, supra*, note 11.

[15] *Caltex Phil. v. Phil. Labor Organization* (*Caltex Chapter*), G.R. No. L-4758, May 3, 1953.

[16] C. A. No. 103.

[17] *Supra* note 10.

This issue arose as a consequence of the suspension of the permit issued to the Kaisahan Union while the case was pending. The Company alleged that this fact had the effect of taking away the respondent union's right to collective bargaining under the Court of Industrial Relations Act,[18] as well as its personality to sue for and in behalf of its members. Ruling on this contention, the Supreme Court said that "there being more than thirty laborers involved in the controversy and the Secretary of Labor having certified the dispute to the CIR that court duly acquired jurisdiction over the case. This jurisdiction was not lost when the Department suspended the permit of the respondent Kaisahan as a labor organization."

This doctrine was reiterated in the case of *PLASLU v. CIR.*[19] In this case, a registered labor organization filed a petition with the Court of Industrial Relations. During the pendency of this case, the Secretary of Labor dropped its name from the list of registered labor organizations because of its failure to meet certain requirements relative to the inspection of its book of accounts. The respondent Company filed a motion to dismiss on the ground that the petitioner not being registered has no capacity to sue. Hence this appeal. The Supreme Court modified the resolution appealed from, and relying upon the doctrine laid down in the above-mentioned La Campana case, said:

> "We are of the opinion that the failure of the petitioner to secure renewal of its permit from the labor department will not operate as a dismissal of this case, it appearing that when filed the present petition it had jurisdictional personality and respondent court had acquired jurisdiction over the case. Jurisdiction once acquired is not lost until the case is completely decided."

The Court further held that:

> "The present case can be continued without need of any substitution of parties subject however to the understanding that whatever decision may be rendered therein will only be binding upon those members of petitioning union who have not signified their desire to withdraw from the case before its trial and decision on the merits."

[18] C. A. No. 213. Section 2 of said Act provides in part:

"All associations which are duly organized and registered with and permitted to operate by, the Department of Labor, shall have the right to collective bargaining with employers for the purpose of seeking better working and living condition, fair wages, and shorter working hours for laborers, and in general, to promote the material, social and moral well-being of their members * * *."

[19] G. R. Nos. L-5664 and L-5699, Sept. 17, 1953.

2. *Board of Tax Appeals*

In the case of *University of Santo Tomas v. Board of Tax Appeals*,[20] the Supreme Court invalidated certain portions of Executive Order No. 401-A, more particularly Part IV of said order which refers to "Court Review of Board Decisions," insofar as the same deprived the courts of first instance of their jurisdiction to act on internal revenue cases as well as cases falling under customs laws and assessment law.

The University of Santo Tomas filed a petition for certiorari and prohibition with the Supreme Court to enjoin the Board of Tax Appeals from hearing the petition filed with it by the university to review the decision of the Collector of Internal Revenue which assessed taxes against it as an educational institution for the years 1946 to 1950. Said taxes were paid under protest by the University. Subsequently upon the direction of the Secretary of Finance, it filed a petition for review with the BTA pursuant to Executive Order No. 401-A and at the same time questioned the jurisdiction of the respondent Board to take cognizance of the petition alleging that Executive Order No. 401-A is of doubtful validity in that it deprives the courts of first instance of their jurisdiction to act on cases involving the recovery of taxes illegally collected under the National Internal Revenue Code.[21]

In granting the petition prayed for, and holding that the BTA had no power to decide the petition for review, the Supreme Court, through Justice Montemayor, declared the aforesaid provisions of the Executive Order null and void because it ousted courts of first instance of their jurisdiction over internal revenue cases. The order was beyond the authority of the Chief Executive to make because under the Constitution, the Congress alone has "the power to define, prescribe and apportion the jurisdiction of the various courts."[22] Inasmuch therefore as the source of power relied upon by the BTA

[20] G. R. No. L-5701, June 23, 1953.

[21] See Ex. Order No. 401-A, Part IV.—Court Review of Board Decisions.

Sec. 306 of the National Internal Revenue provides:

"No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Collector of Internal Revenue such suit or proceedings may be maintained, whether or not such tax, penalty or sum has been paid under protest or duress. In any case, no such suit or proceeding shall be begun after the expiration of two years from the date of payment of the tax or penalty."

[22] Art. VIII, Sec. 2, Constitution of the Philippines.

was declared invalid, the Board could not properly take cognizance of said petition.

3. *Workmen's Compensation Commission*

Pursuant to the Workmen's Compensation Act [23] which took effect on June 20, 1952, all claims for compensation authorized by this law are now within the exclusive jurisdiction of the Workmen's Compensation Commission, subject to appeal to the Supreme Court. Before the creation of said Commission said claims were cognizable by the regular courts. The Supreme Court in the case of *Castro v. Sagales*,[24] said that the Workmen's Compensation Act applies not only to claims where the right of action accrued after the effectivity of said act but also to those which arose before the passage of the same provided that the action was brought after the act took effect. The Supreme Court therefore sustained the action of the trial court in dismissing a claim for compensation filed before it in August, 1952 for the death of a laborer which occurred in January, 1952 on the ground that at the time of the filing of said claim the court had no longer authority to entertain the same as it was filed after June 20, 1952, the date of the taking effect of the act which vested exclusive jurisdiction on such matters in the Workmen's Compensation Commission.

4. *Public Service Commission*

In the case of *Luzon Stevedoring Co. v. PSC and Philippine Shipowner's Association*,[25] Section 13 (b) of the Public Service Commission Law,[26] defining public service, was interpreted by the Supreme Court as including persons who render any service for compensation, although serving a limited clientele. In order therefore to be within the reach of the Public Service Commission and thus be subject to its regulations, it is not necessary that one hold himself out as serving or willing to serve the public.

In that case petitioners were duly organized corporations mainly engaged in the stevedoring or lightering and harbor towage business. At the same time they were engaged in interisland service which consisted of hauling cargoes such as sugar, oil, fertilizers and other commercial commodities which were loaded in barges and towed by their tugboats from Manila to various points in the Visayan Islands. Upon complaint of the Philippine Shipowner's Association filed with

[23] R. A. No. 772.
[24] G. R. No. L-6359, Dec. 29, 1953.
[25] G. R. No. L-5458, Sept. 16, 1953.
[26] C. A. No. 146.

the PSC the Commission made an investigation and found out that the petitioners were regularly engaged in this hauling business serving a limited portion of the public. It therefore made an order restraining petitioners "from further operating their watercraft, to transport goods for hire or compensation between points of the Philippines until the rates they propose to charge are approved by this Commission." Hence this petition for review filed by Luzon Stevedoring. In affirming the power of the PSC to issue such an order the Supreme Court, through Justice Tuason, said in passing:

> "In at least one respect, the business complained of was a matter of public concern. The PSC Law was enacted not only to protect the public against unreasonable charges and poor, inefficient service, but also to prevent ruinous competition. That we venture to say, is the main purpose in bringing under the jurisdiction of the PSC motor vehicles, other means of transportation, iceplants, etc., which cater to a limited portion of the public under private agreements. To the extent that such agreements may tend to wreck or impair the financial stability and efficiency of public utilities who do offer service to the public in general, they are affected with public interest and come within the police power of the state to regulate."

The Supreme Court implied that to hold otherwise would give rise to an evasion of control by the government for "just as the Legislature may not declare a company or enterprise to be a public utility when it is not inherently such, a public utility may not evade control and supervision of its operations by the Government by selecting its customers under the guise of private transactions."

One of the functions of the PSC in the exercise of its jurisdiction over public utilities is the granting, in proper cases of "certificate 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 promote the public interests in a proper and suitable manner."[37]

This year the Supreme Court once more reiterated the "prior operator rule," a rule of long standing in this jurisdiction that preference be given to old and established operators.[38] In the *De Fernando* case the petitioner was a pre-war bus operator operating between the same lines which were subsequently covered by a new certificate conceded to Gallardo by the PSC over the objection of De Fernando. Petitioner sued out a petition for review of said order in the Supreme Court alleging that they were entitled to preference in the granting of any new units.

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[37] See Sections 15 and 16(a), C. A. No. 146.

[38] *De Fernando v. Gallardo*, G. R. No. L-4860, Sept. 8, 1953.

In reversing the order of the PSC and revoking the certificate granted to Gallardo, the Supreme Court held that being old operators, unquestionably able to increase their units, the petitioners were entitled to protection and priority as against new operators. Justice Paras cited the rule laid down in *Batangas Transportation v. Orlanes*:[29]

> "So long as the first licensee keeps and performs the terms and conditions of its license, and complies with the reasonable rules and regulations of the Commission, and meets the reasonable demands of the public, it should have a more or less vested and preferential right over the same route."

This rule however is not an absolute one. In a long line of decisions the Supreme Court has interpreted the same to give way to the needs of necessity and public convenience which are the prime considerations for authorizing a public utility to operate.[30] A corollary to this rule is the power the Public Service Commission to make such regulations as will prevent ruinous competitions.[31]

5. *Securities and Exchange Commission*

The determination as to whether or not the issuer of securities or bonds had discharged its obligation until otherwise provided by law lies within the province of courts and the Securities and Exchange Commission has no power to pass upon it.

This was the ruling in the case of *La Orden de PP Predicadores Benedictos de las Islas Filipinas v. Stiver.*[32] In that case, La Orden floated a bond issue, with the Philippine Trust Co. as trustee. As security for the bond, the La Orden executed a first mortgage and deed of trust over certain parcels of land in favor of the Philippine Trust, for the benfit of the bondholders. Subsequently, because the bonds have matured and were still unpaid, the above-mentioned parcels of land were sold during the Japanese occupation. An amount in Japanese occupation money sufficient to redeem the entire bond issue was then turned over to the Philippine Trust, and a judicial decree was obtained which released La Orden form all obligations it contracted with respect to the bonds.

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[29] 52 Phil. 455.

[30] *Javellona v. Bariles*, G. R. No. L-3447, January 31, 1953; *Banaag v. Intestate Estate of Enriquez*, G. R. No. L-4266, Feb. 29, 1952, citing *Manila Electric Co. v. Pasay Transportation Co.*, 31 O. G. 2083; *Manila Electric Co. v. Pasay Transportation Co.*, 36 O. G. 3250; *Manila Railroad Co. v. Parson's Hardware Co.*, 37 O. G. 1333; *Bachrach Motor v. Elchico*, G. R. No. L-3415, July 9, 1952.

[31] *Luzon Stevedoring v. P. S. C., supra.*

[32] G. R. No. L-4568, June 16, 1953.

Upon receipt of the redemption money, the Philippine Trust notified the bondholders, and paid those which surrendered their bonds. However, some bondholders failed to do so. After the liberation, the redemption money became worthless, and the remaining bonds were left unpaid. The Court ruled:

"Whether the payment made by the insurer of the bonds of the whole amount of the mortgage obligation or bonded indebtedness to the trustee who is still in possession of part of said amount has discharged the issuer from its obligation to pay the bondholders, and whether the trustee after calling upon the bondholders to receive the amount due them upon their bonds has been discharged from liability to the bondholders who have not been paid because of their failure to call upon and receive from the trustee what is due them upon their bonds, are matters foreign to the functions of the Securities and Exchange Commission because they fall within the field of judicial determination and adjudication."

6. *Patent Office*

The Director of Patents does not have the power to exercise functions which are essentially judicial. In the case of *Albaña v. Director of Patents,*[33] the Supreme Court ruled that the Director had no jurisdiction to make any recommendations which required the findings of a court of competent jurisdiction as to whether there was a meeting of the minds between the alleged contracting parties with regard to the invention for which a patent was being sought. The appellant in the above-entitled case had petitioned the Director of Patents to compel the applicant inventors who had filed an application for a patent to execute certain contracts which said appellant contended would embody certain agreement made between the inventors and the appellant on a prior date. The Supreme Court held that what applicants asked the Director of Patents to do for him was essentially a judicial function which was clearly outside of his jurisdiction.

B. REGULATION

The Public Service Commission has the power to fix the rates charged by public utilities in order to insure the public against unreasonable charges and poor and inefficient service as well as to prevent ruinous competition. As Justice Labrador in the case of *Luzon Stevedoring* [34] pointed out:

"* * * the public policy of the state as announced by the legislature will be given due weight, and the determination of the legislature that a particular business is subject to the regulatory power because the public

[33] G. R. No. L-4572, May 22, 1953.

[34] *Supra* note 25.

welfare is dependent upon its proper conduct and regulation, will not be lightly disregarded by the courts."

The Commissioner of Customs has control over seizure cases pending before the Collector of Customs in that the latter is subject to his immediate supervision and he can always direct the Collector of Customs to hold in abeyance within reasonable time the promulgation of his decision until after he has studied the case and given suggestions. The Commission therefore has no right to reopen a case decided by the Collector after the decision has become final without the aggrieved party having taken an appeal.[25]

C. RULE MAKING

Section 551 of the Revised Administrative Code provides that every chief or bureau shall prescribe forms and make regulations or general orders not inconsistent with law to carry into full effect the laws relating to matters within the Bureau's jurisdiction. This power is not without limit and in order to have a valid exercise of the same certain conditions must be complied with. First, the rule or regulation *must not be inconsistent with law.* If there is a conflict between the regulation and an existing statute, such conflict being irreconcilable, the latter shall prevail. Secondly, said regulation must relate to matters which are exclusively within the Bureau's jurisdiction. And thirdly, said regulations must be approved by the Department Head and published in the Official Gazette or otherwise publicly promulgated. This was in effect the decision of the Supreme Court in the case of *Sy Man v. Jacinto and Fabros,*[26] wherein an order[27] issued by the former Insular Collector of Customs[28]

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[25] *Sy Man v. Jacinto and Fabros,* G. R. No. L-5622, Oct. 31, 1953.

[26] *Ibid.*

[27] Memorandum Order

"To All Collectors of Customs at Subports:

"It has been observed that in seizure cases some collector of Customs merely submit to this Office reports of their seizures and the subsequent final disposition they made of the articles seized. They do not transmit the records of the proceedings and their decisions thereon in due form, as required by Section 1380 and 1381 of the Revised Administrative Code. As in protest cases, decisions of Collectors of Customs in seizure cases, whether appealed or not, are subject to review by the Insular Collector. To this end, it is necessary that such decisions and their supporting papers be submitted to this Office, or except in cases where such goods are perishable in nature or liable to deterioration in which the same be disposed of with the least possible delay in accordance with the provisions of Section 1399 of the Revised Administrative Code.

"Where the articles are subject to forfeiture under section 1363 of the Revised Administrative Code and a fine is imposed in lieu of forfeiture under Section 1365 of the same Code, the decision thereon in due form and all the supporting papers shall

(this office is now known as the Commissioner of Customs by virtue of section 51 of Executive Order No. 54 promulgated on October 4, 1947) was declared by the Supreme Court as null and of no effect said order being in direct contravention with section 1380 [39] of the Revised Administrative Code. Section 1380 provides that a decision of the Collector of Customs is reviewable by the Commissioner by appeal taken by the aggrieved party with fifteen days from notice of said decision. It is therefore to be implied that said decision becomes final upon the lapse of such time without the aggrieved party having taken an appeal. On the other hand, the memorandum order of the Commissioner directed the Collector to forward all decisions to his office for review and pending action by the Commissioner no final disposition of the goods can be made except upon previous authority from his office or when the goods are perishable in nature. The Supreme Court in annulling said order pointed out the inconsistency of said order with the express provision of the Revised Administrative Code.

1. *Board of Accountancy*

The Board of Accountancy makes the rules for the examination of candidates for certified public accountant, but they are subject to the approval of the Secretary of Finance.[40] The powers of the Department Head are therefore wider than those of the Board. When the Department Head makes an exception to the rules and regulations in one case, such action could scarcely be invoked as guide for the Board to follow. Assuming without conceding that the Department Head can lawfully act beyond or make exceptions to the rule, the Board without the Secretary's authority cannot do so.

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be transmitted to this office for confirmation or such other action as may be deemed proper. Pending receipt of such confirmation the decision shall not be given effect.

"All concerned shall be guided accordingly.

"ALFREDO DE LEON
"Insular Collector of Customs"

[38] This Office is now known as the Office of Commissioner of Customs by virtue of section 51 of Executive Order No. 54 promulgated on October 4, 1947.

[39] Section 1380 provides: *Review by Commissioner.* The person aggrieved by the decision of the Collector of Customs in any matter presented upon protest or by his action in any case of seizure may, within fifteen days after notification in writing by the collector of his action or decision, give written notice to the collector signifying his desire to have the matter reviewed by the Commissioner.

Thereupon, the Collector of Customs shall forthwith transmit all the papers in the cause to the Commissioner, who shall approve, modify or reverse the action of this subordinate and shall take such steps and make such order or orders as may be necessary to give effect to his decision.

[40] Sec. 1(a), Act No. 3105.

This was the ruling in the case of *Coloso v. Board of Accountancy.*[41] In that case it appears that one Exequiel Reyes had previously been permitted by the Secretary of Finance to take a re-examination after the war of the subjects which he had flunked when he took the examination for C.P.A. before the war. Par. VII[42] of the Regulations of the Board provides that this could only be done when the application to take only the subjects flunked is made within one year.

Petitioner in the above entitled case had also taken the examinations before the war, *i.e.,* 1941. He had passed two and flunked two subjects. He then asked for permission from the Board of Accountancy in 1945 to be allowed to take the same only in the subjects he had not passed, invoking the case of Exequiel Reyes, as precedent. The Supreme Court held that the Secretary's action in favor of Reyes was not a greenlight for the Board to act similarly in other analogous cases.

D. MODIFICATION OF THE ORDERS OF THE COURT OF INDUSTRIAL RELATIONS AND THE PUBLIC SERVICE COMMISSION

The Court of Industrial Relations derives this power from sections 7 and 17 of the Court of Industrial Relations Act.[43] The last provision was illustrated in the case of *Caltex (Phil.) Inc. v. Philippine Labor Organization Caltex Chapter.*[44] The facts of the case are as follows:

> "On February 13 and 15, 1950, the Union presented certain demands on the Company. On March 1, 1950, a strike was declared by the Union, a matter which was submitted to the Court of Industrial Relations. After hearing, Judge Roldan, on July 31, 1950, declared the strike illegal. The Union filed a motion for reconsideration. Under date of January 31, 1951, the Court of Industrial Relations in banc reversed its former decision. On March 30, 1951, the Company filed a petition praying that the motion for reconsideration be denied because the decision had become final and unappealed on August 17, 1950, in view of the fact that although the motion for reconsideration was filed by the Union on the last day of the reglamentary period, no copy thereof was served on the adverse party

[41] G. R. No. L-5750, prom. April 20, 1953.

[42] Par. VII of the Regulations of the Board reads as follows:

"To pass the examination, a candidate must have made 75 points in each subject. In the event of a candidate receiving a grade of 75 points or more, in two or more subjects he may make application within the year in the usual manner for examination and the Board at its option, may permit his reexamination to be confined to those subjects in which he had previously failed."

[43] C. A. No. 103.

[44] G. R. No. L-4758, May 30, 1953.

and no proof of service was shown. The Court of Industrial Relations denied the petition hence this petition for review."

The Supreme Court sustained the Court of Industrial Relations, holding among others that:

"Assuming that a copy of the motion filed by the Union was not served upon the company or if served no proof of service was presented, the court could entertain said motion for reconsideration * * * under section 17 of CA No. 103."

This power however is not unlimited. The Court of Industrial Relations may not modify an award that had been affirmed by the Supreme Court after the order for the execution of that award had already become final. Thus in the case of *Nahag v. Roldan*,[45] the Supreme Court made this pronouncement:

"While section 17 of C.A. No. 103 apparently authorizes the modification of an award at any time during its effectiveness, there is nothing in its wording to suggest that such modification may become finally elapsed at the time the order was issued. To read such authority into the law would make of litigations between capital and labor an endless affair."

The Public Service Commission cannot without proper notice to the parties interested and hearing, amend its decision if such amendment would be one of substance and not merely a nominal or innocent change.[46] Thus, in the *Halili* case the grant by the Public Service Commission of the route along the Barangka and Marikina roads to one operator did not authorize it to amend the same so as to include the U.P. site without giving notice to Halili who was the operator in said line. According to Justice Labrador:

"A cursory perusal of the routes * * * which are the subject of the controversy readily discloses that the change or amendment orders by the respondent is one of substance, not a nominal or innocent change. It does not seem to us to be a correction of a mere clerical, innocent change. To us, the grant of the route along the Barangka and Marikina roads to respondent operator was for the purpose of giving service to the people living along these roads and at Balara. On the other hand petitioner herein Halili was already given the U.P. to Kamuning line to serve the students of the University and people living along the route. The supposed justification for the issuance of this disputed order therefore, is not borne out of the original decision granting the certificate of respondent's predecessor.[47]

[45] G. R. No. L-5983, Nov. 28, 1953.

[46] *Halili v. Commission de Servicio Publico y Horas*, G. R. No. L-5960, June 17, 1953, and *Halili v. PSC*, G. R. No. L-5984, April 29, 1953.

[47] See *Salvador v. PSC*, G. R. No. L-4841, Dec. 17, 1952; *Ariaga v. Jarellana*, G. R. No. L-4821, Dec. 17, 1952; and *Cacho v. Jarellana*, G. R. No. L-4829, Dec. 17, 1952.

II. PROCEDURE IN ADMINISTRATIVE AGENCIES

A. STANDING OF PARTIES BEFORE ADMINISTRATIVE AGENCIES

1. *Court of Industrial Relations*

In order that a labor union may have capacity to sue, it is necessary that it first comply with certain requirements, one of them being that it must register and secure a permit to operate as such from the Department of Labor. According to Justice Bautista Angelo, in the case of *Philippine Land-Air-Sea Labor Union v. Court of Industrial Relations*:[48]

> "A labor organization is not considered legitimate in contemplation of law unless that requirement has been complied with. Thus, the law postulates that 'a legitimate labor organization is an organized association or union of laborers, duly registered and permitted to operate by the Department of Labor' and that registration of, and the issuance of a permit to, any legitimate labor organization shall entitle it to all the rights and privileges recognized by law."

It is of no moment that the petitioner has organized itself into a non-stock corporation for such incorporation "has only the effect of giving it juridicial personality before regular courts of justice," and "cannot be availed of to enjoy the right and privilege granted by law to a legitimate labor organization."

B. PROCEDURE

1. *Court of Industrial Relations*

The Court of Industrial Relations Act[49] recognizes the power of the Court of Industrial Relations to adopt its own rules of procedure and may act according to justice and equity without regard to technicalities and for that matter is not bound by any technical rules of evidence. This apparent broad grant of power should not be construed to authorize the court to disregard the fundamental requirements of due process in the trials and investigation of cases brought before it for determination. As held in the case of *Philippine Movie Pictures Workers' Association v. Premier Productions Inc.*,[50] "there are certain cardinal primary rights which the Court of Industrial Relations must respect in the trial of every labor case. One of them is the right to a hearing which includes the right of the party interested to present his own case and submit evidence in support thereof." This case involved a decision of the Court of Industrial Relations authorizing the lay-off of workers on the basis of an

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[48] G. R. No. L-5664 and 5698, Sept. 17, 1953.
[49] Sec 20, C. A. No. 103.
[50] G. R. No. 5621, Mar. 25, 1953.

ocular inspection without receiving full evidence to determine the cause or motive of such lay-off. The following are the pertinent facts of the case:

> "It appears that when the case was called for hearing to look into the merits of the urgent petition of respondent seeking to lay off 44 men who were working in three of its departments on the ground of lack of work and because its business was suffering financial losses during the current year, the Court, which was then respondent, by its presiding Judge decided to make an ocular inspection of the studios filming premises of respondent following a request made to that effect by its counsel, and in the course of said inspection Judge Roldan proceeded to interrogate the workers he found in the place in the presence of the counsels of both parties. The testimony of the interrogated was taken down and the counsel of both parties were allowed to cross-examine them. Judge Roldan also proceeded to examine some of the records of respondent Company among them the time cards of some workers which showed that while the workers reported for work, when their presence was checked they were found to be no longer in the premises. And on the strength of the findings made by Judge Roldan in this ocular inspection he reached the conclusion that the petition for lay-off was justified because there was no more work for the laborers to do in connection with the different jobs assigned to them."

To the claim of the respondent Company that the labor union had its day in court because its counsel was present in the investigation or ocular inspection and even presented some witnesses to protect its interest, the answer of the Supreme Court was:

> "An ocular inspection of the establishment or premises involved is proper if the court finds it necessary, but such is authorized only to help the court in clearing a doubt, reaching a conclusion, or finding the truth. But it is not the main trial, nor should exclude the presentation of other evidence which the parties may deem necessary to establish their case. It is merely an auxiliary remedy which the law affords the parties or the court to reach an enlightened determination of the case."

Notwithstanding the provision of the law,[51] the Supreme Court in the case of *Caltex Inc. v. Phil. Labor Organization*,[52] enjoined the Court of Industrial Relations from rendering judgments solely on the basis of sympathies and inclinations, saying that "neither are they authorized in the guise of affording protection to labor, to distribute charities at the expense of natural and of juridical persons, because our constitutional government assures the latter against deprivation of their property except in accordance with the statutes or supplementary equitable principle."

[51] Sec. 20, C. A. No. 103.
[52] *Supra* note 8.

2. *Public Service Commission*

The Public Service Act[53] expressly defines the powers of the Public Service Commission which may be exercised by it "upon proper notice and hearing"[54] or "without previous hearing."[55] However, an order of the Public Service Commission granting an amendment of the route, without notice to the petitioner and other interested parties or hearing giving the parties opportunity to present their respective evidence, does not fall under any of the powers enumerated in the above sections of the law, and is therefore, invalid as a violation of the due process clause of the Constitution. As held by the Supreme Court in *Halili v. Public Service Commission and CAM Transit Co. Inc.*:[56]

> "Even if the Commission is not bound by the rules on judicial proceeding, it must bow its head to the constitutional mandate that no persons shall be deprived of right without due process of law. The due process of law clause of the Constitution binds not only the government of the Philippines but also each and every one of its branches, agencies, etc. Due process of law may mean accord with the procedure outlined in the law, or in the absence of express procedure, under such safeguards for the protection of individual rights, as the settled maxims of law permit and sanction for the particular class of cases to which the one in question belongs. In the case at bar, the Public Service Act does not include the amendment made in the disputed order among those that may be ordered without notice or hearing in accordance with section 17 of the Act. Is the amendment without notice or hearing permitted by the well settled maxims of law? We declare it is not, because due process of law guarantees notice and opportunity to be heard to persons who would be affected by the order or act contemplated."

III. JUDICIAL REVIEW

The supremacy of law demands that there shall be opportunity to have some court decide whether an erroneous rule of law was applied and whether the proceeding in which facts were adjudicated was conducted regularly.[57]

A. PRIMARY JURISDICTION, RIPENESS FOR REVIEW AND EXHAUSTION OF REMEDIES

With the growth of the field of administrative law, the overlapping of jurisdiction of certain administrative agencies and of the regular courts of justice has been inevitable. This year, the Su-

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[53] C. A. No. 146.
[54] Sec. 16, C. A. No. 146.
[55] Sec. 17, C. A. No. 146.
[56] G. R. No. L-5948, prom. April 29, 1953.
[57] *St. Joseph Stockyards Co. v. U. S.*, 298 U. S. 38, 84.

preme Court had occasion to reconcile these conflicting jurisdictions whenever possible.

Thus, in the case of *Coloso v. Board of Accountancy*[58] the Supreme Court held that appeal from an order of the Board of Accountancy must be made to the Secretary of Finance and not to the Supreme Court. The question here raised was whether the Board of Accountancy can be compelled by mandamus to register and issue to petitioner a certificate as certified public accountant. In addition to holding that the question deals with the exercise of the Board's discretion which, being a purely administrative function, cannot be interfered with by the courts, the Supreme Court said that the petitioner has a plain, speedy and adequate remedy other than a resort to the courts of justice. What the petitioner could or should have done was to appeal to the Secretary of Finance. This is so because while the Board of Accountancy makes the rules for the examination of candidates, they are subject to the approval of the Secretary of Finance.

With regard to seizure cases in the Bureau of Customs, the decision of the Collector of Customs is appealable to the Commissioner of Customs, and if not protested and appealed by the importer on time, it becomes final not only as to him but against the Government as well and neither the Commission nor the Department head has the power to review, revise, or modify such unappealed decision. It would seem then that there is no automatic review and revision of decisions of Collectors in unppealed seizure cases by the Commisioner of Customs, the elevation of cases to the Commission being within the owner's exclusive power and discretion. And if the Collector renders a decision against the Government, the latter cannot appeal because the appeal must come from the owner of the goods. This is so, because the rule is and the law presumes that in "seizure cases Collectors of Customs act honestly and correctly and as Government officials, always with an eye to the protection of the interest of the Government employing them, * * *. Cases of erroneous decision against the interest of the Government or decisions rendered in collusion with the importers are the exception."[59]

B. SCOPE OF JUDICIAL REVIEW

The extent of judicial injuiry in many cases depends not only upon legal formulas and theories but also upon judicial attitude at the moment.[60] A large degree of discretion is vested in the courts.

[58] *Supra*, note 41.
[59] *SyMan v. Jacinto and Fabros*. See note 35.
[60] DAVIS, *op. cit. supra* note 7.

And this discretion permits the courts to determine their own attitude towards Administrative agencies whether it be judicious self-restraint or officious interference and substitution of judgment. The result is apt in no small measure to turn upon whether the reviewing court is blessed with more intellectual pride than humility and also where the question presented for review appeals particularly to the sympathy and interest of the court.[61] Sometimes the courts may have doubts about certain issues and would find it necessary to substitute judgment. The exercise of judicial power glides from one extreme to the other—sometimes drawing close to a judicial usurpation of the fact finding task and sometimes approaching a seemingly indiscriminate acceptance of ill-supported findings.

The growing tendency of the court is to categorize a particular question as one of "law" or of "fact." If it deals with a rule, or is one of power or abuse thereof, the question is one of law. Questions of fact are concerned with what actually happened, with events and circumstances.

1. *Question of fact*

The line of decisions indicates that courts will refrain from exercising their power to review where the question involves a factual inquiry. One of the recent cases which illustrates this doctrine is *Philippine Education Co. v. Court of Industrial Relations and National Labor Union,*[62] wherein it was held that "whether or not the ruling of the Court of Industrial Relations will allow the petitioner a fair return on its investments or result in its bankruptcy is a factual inquiry which we are not authorized to make." The issue herein involves the right of the Court of Industrial Relations to grant increase in the wages of the employees. Taking into account the high cost of living and acting under Sec. 20 of the Court of Industrial Relations Act,[63] the respondent court conceded salary increases to the labor union. On appeal the Supreme Court refrained from substituting its judgment and held that the question is one of fact.

It is important to note that in an earlier case, *Talisay Silay Milling Co. v. Talisay Employees and Labor's Union,*[64] the Supreme Court announced a ruling which weakened the aforecited doctrine, making it of doubtful authority. The same issue of whether the Court of Industrial Relations can grant general increase in wages was raised. The Supreme Court re-examined the facts to determine

[61] Brown, R. A., *Fact and Law in Judicial Review*, 56 Harv. L. Rev. 889 (1942).
[62] G. R. No. L-5671, Nov. 28, 1953.
[63] C. A. No. 103.
[64] G. R. No. L-5406, May 29, 1953.

whether extra expenditure occasioned by the Court of Industrial Relation award would permit the Company to earn a "fair return on its investment." In reversing the decision of the Court of Industrial Relations the Supreme Court said:

> "Indeed the contrary seems to be the situation, the employers having alleged that it is 'sun en estado de rehavilitacion y que sus fondos no le conceden aumento de salario.'"

This holding in effect destroys the efficacy of the doctrine in the first mentioned case, where the Court asserted without any reservation that the question raised is an exclusive prerogative of the Court of Industrial Relations. The Court could have avoided an apparent intrusion into the Court's prerogative had it merely labeled the question as one of law. In fact, the decision would reveal that the question was one of law. Authority for this view is the case of *Halili v. Public Service Commission and CAM Transit*[65] where the Service Commission declared that the issue is one of law where the findings of an administrative body are not authorized by the facts of the case.

Another question of fact was illustrated in the case of *Atok Big Wedge Mining Co. v. Atok Big Wedge Mutual Benefit Association.*[66] The appealed decision was based on a finding of the Court of Industrial Relations "that there is no evidence whatsoever of the alleged breach of trust." The Supreme Court held that the finding that "the alleged breach of trust is not supported by any evidence is one of fact, which we are not authorized to review, much less alter, in the present instance."

The Supreme Court will accept the findings of the Court of Industrial Relations regarding the impropriety of the suspension or dismissal of respondents, involving as they do questions of fact.[67] In this case the Supreme Court held that reinstatement which was immediately ordered by the Court of Industrial Relations must be held in abeyance pending determination by the Court of Industrial Relations of the validity of the Compromise Agreement which it has approved and upon which it ordered the suspension and dismissal. In effect, the Supreme Court attempted to intrude into an administrative function by creating a doubt as to the validity of a Court of Industrial Relations award, a question of fact, although, to avoid unwarranted interference, it remanded the case to the Court of Industrial Rela-

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[65] *Supra* note 46.

[66] G. R. No. L-5594, May 15, 1953.

[67] *Marcelo Rubber and Latex Products v. CIR*, G. R. No. L-5735, prom. Oct. 29, 1953.

tions for the latter to modify its order depending on the validity of the compromise agreement.

2. *Questions of Law*

(1) Lack of Power

A question of law is presented where the issue is whether the administrative tribunal has acted without or in excess of jurisdiction.[68] The power or jurisdiction of the administrative agencies is outlined by the law of its creation. Where the power assumed was not authorized by Congress courts are free to assert their reviewing authority. Conversely, where the jurisdiction exercised is within the statutory grant, the decision reached by the agency will not be disturbed by the courts.

Where the law requires that a certain number of employees must be involved in a dispute before the Court of Industrial Relations can decide said dispute, its action taking cognizance of the demands of only seven employees will be reversed by the Supreme Court for having acted without jurisdiction to do so.[69]

So, too, when the law expressly authorized the Court of Industrial Relations to modify its award only during its effectiveness, there is implied a denial of the power to modify its award after the order for the execution of the award has already become final. Thus an order of the Court of Industrial Relations giving course to a motion for modification of a judgment that has already become final, will be set aside on appeal.[70]

Judicial interference is also proper when the order of the Court of Industrial Relations is against the plain purpose and intent of the legislative provision allowing the expenses of harvesting to be paid out of the gross produce, although said order fixing the expenses of harvesting the crops in pesos is factual.[71]

(2) Procedure to be followed in questions of law: Due process in administrative proceedings is, in a general fashion, regulated by rules provided for by the legislative enactments under which the administrative bodies operate. However, while there may be a substantive grant of power, still the action of the agency may be subject to judicial procedure followed. The case squarely in point is *Philippine Movie Pictures Workers' Association v. Premier Productions Inc.*[72] where the court held that:

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[68] *Metran v. Paredes*, 45 O. G. 835 (1947).
[69] *Supra* note 9.
[70] *Supra* note 45.
[71] *Camia v. Chanco*, G. R. No. L-5175, Feb. 27, 1953.
[72] *Supra* note 50.

> "Although the Court of Industrial Relations in the determination of any question or controversy, may adopt its own rules of procedure and may act according to justice and equity without regard to technicalities and for that matter is not bound by any technical rules of evidence (Sec. 20, C.A. 103), this broad grant of power should not be interpreted to mean that it can ignore or disregard the fundamental requirements of due process in the trials and investigations of cases brought before it for determination."

So that, an order of the Court of Industrial Relations based on an ocular inspection was set aside on the ground that the required due process was not followed, inasmuch as said ocular inspection is a "mere auxiliary remedy which the law affords the parties or the court to reach an enlightened determination of the case," but is not the "main trial," and does not preclude the parties from presenting other evidence they may deem necessary to establish their case.

The same doctrine was relied upon by the Supreme Court in reversing the order of the Public Service Commission in the case of *Halili v. Public Service Commission and CAM Transit*[73] granted without notice to the petitioner and others interested to be present, which the Court considered a violation of the petitioner's right not to be deprived of his property without due process of law.

3. *Findings of fact not supported by evidence*

In the case of *Halili v. Public Service Commission and CAM Transit*,[74] the Supreme Court held that the issue is one of law where the findings of an administrtive body are not authorized by the facts of the case.

In resumé, all the discussion above boils down to one rule—that the "Court is not authorized to weigh the conflicting evidence and substitute its conclusion for that of the administrative agency. Only where it clearly appears that there was no proof before the Commission reasonably to support its conclusion would this Court be justified in interfering with the Commission's decision." [75]

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[73] *Supra* note 46.

[74] *Supra*.

[75] *Jarellana v. Bariles, supra* note 30.