

REGULATORY AGENCIES IN THE PHILIPPINES *

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The quest for economy and efficiency in administration in this era of constantly changing conditions and complex social and economic problems precludes the doctrinaire application of the principle of separation of powers. The assumption by government of manifold functions has resulted in the enlargement of the field of operation of regulatory tribunals, boards and agencies. Regulatory agencies are established to handle relationships which result from an expansion of agricultural, commercial and industrial activities but which regular legislative and judicial procedures could not expeditiously meet. These agencies are increasingly relied upon for the exercise of functions pertaining to labor relations, transportation policy, registration of securities and exchanges, patents and the like.

In the last decade there has been an increasing resort to the administrative process. The solution of problems occasioned by a steady progress in technology and urbanization requires the creation of administrative bodies to discharge specific phases of the task of governmental regulation. Congress have neither the time nor the expertise to enact detailed rules covering regulated activity. The judicial process is costly, slow and tedious, and court dockets are overcrowded; hence the search for a supplemental process of inquiry. Thus, the need for regulatory agencies has been closely identified with the "growing complexity of modern life, the multiplication of the subjects of governmental regulation and the increased difficulty of administering the laws."¹

Regulatory agencies exercise powers expressly conferred upon them by law or necessarily implied from powers explicitly granted. According to one authority, they perform three main functions. These are (1) to keep industry and other regulated groups apprised of the goals of public policy in regard to regulation, (2) to formulate rules and regulations through which the desired policy can best be achieved, and (3) to enforce these regulations either by adjudicating controversies or by prosecuting acts which violate established policy.²

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¹ *Pangasinan Transportation Co. v. Public Service Commission*, 70 Phil. 221 (1940).

² John M. Pfiffner and R. Vance Preethus, *Public Administration* (3rd ed.)

Two important attributes of a regulatory agency are the issuance of rules and regulations and the determination of conflicting rights. An agency makes rules and regulations with which to implement congressional policies; it is normally given the power to resolve issues arising out of cases coming before it for settlement and adjudication. Uniform procedure is not followed by regulatory agencies in the performance of quasi-legislative and quasi-judicial functions. There is no requirement of strict adherence to an established legal pattern of procedures.

Philippine regulatory bodies are located within the executive hierarchy, under the immediate supervision of regular line departments. They lack an element normally characteristic of their counterparts in the United States: institutional independence from the executive branch of government. From the organizational standpoint, therefore, these agencies are not autonomous. However, they enjoy some degree of independence with respect to their regulatory functions. Rules, regulations and decisions are usually made conclusive and binding upon the interests regulated. Ranking officials of major regulatory agencies, such as the Court of Industrial Relations, the Securities and Exchange Commission and the Public Service Commission, are afforded security of tenure.³ Appointments and tenure of subordinate personnel are subject to the regular civil service regulations.

Rule Making. Rules and regulations are formulated by regulatory agencies to fill in gaps within the framework of the policy enunciated in the law. Inasmuch as the rule-making process involves the exercise of legislative prerogatives, standards must be provided by Congress to guide administrative quasi-legislation. A congressional standard furnishes the criterion for action. Without it, the statute incurs the risk of being challenged and annulled on the ground of undue delegation of legislative power. Standards considered sufficient by the Supreme Court include "public welfare,"⁴ and "interest of law and order,"⁵ "public interest,"⁶ and "justice and equity."⁷ Of course the rules, and the statutes under which they are promulgated, must not be in conflict with any constitutional provision. Administrative regulations, in order to be binding, must also be promulgated in strict conformity with the purposes of the statute and must fall within the scope of the law which grants authority to the agency. They can neither read into the law additional requisites⁸ nor supply a defect in the law.⁹

1953, p. 464.

³ C.A. No. 103, Sec. 1, Oct. 29, 1936 and C.A. No. 146, Sec. 3, November 7, 1936, as amended by R.A. No. 178, June 21, 1947.

⁴ *Municipality of Cardona v. Municipality of Binagonan*, 36 Phil. 547 (1917).

⁵ *Rubi v. Provincial Board of Mindoro*, 39 Phil. 660 (1919).

⁶ *People v. Rosenthal*, 68 Phil. 328 (1939).

⁷ *Antamok Gold Fields Mining Co. v. Court of Industrial Relations*, 70 Phil. 340 (1949).

⁸ *Antiquera v. Secretary of the Interior*, G. R. No. L-3318 (1952).

⁹ *People v. Santos*, 63 Phil. 300 (1936).

Rules and regulations are classified into (1) those issued by a superior directed exclusively to his subordinates and (2) those directed primarily to private individuals and fixing the manner by which the terms of the statute are to be complied with. Rules falling under the latter category may or may not be penal in character. Two requisites have to be met before penal sanctions can be embodied in rules and regulations issued by a regulatory agency.¹⁰ The law authorizing the agency to promulgate rules and regulations should itself authorize the imposition of a penalty for their violation. Such law should also make an express and specific provision as to the penalty.¹¹

Specific powers to make rules and regulations to carry out the provisions of the law are granted to regulatory agencies by their respective laws of creation. Requirements for notice to interested parties vary among the several agencies. Rules must be published in the *Official Gazette* in order that the public may be officially and specifically informed of the contents and penal provisions.¹²

Adjudication. A full discharge of the duties conferred upon regulatory boards, commissions or agencies requires them to consider and determine questions of a legal and economic character. Conflicting rights have to be settled and determinations arrived at concerning matters touching various aspects of the national economy. An agency is normally given the power to determine, either by rule or by decision, private rights and obligations. The Court of Industrial Relations, for instance, has to decide what is reasonable and equitable for both labor and capital. The Public Service Commission extends its power of control and regulation of public services and utilities to the end that the interests of the public may be protected. Upon the Securities and Exchange Commission devolves the task of discerning between registerable securities and spurious ones.

The adjudicatory power of regulatory agencies is subject to certain limitations. Basic requirements of procedural due process have to be observed. The first of these rights is the right to a hearing, which includes the right of the party interested or affected to present evidence and arguments in support of his own case. Secondly, the tribunal must consider the evidence presented. Thirdly, the duty to deliberate implies another factor which cannot be disregarded; namely, that of having something to support the decision. Not only must there be some evidence to support a finding or conclusion, but the evidence must be substantial. Substantial evidence in this instance means such relevant evidence as "a reasonable

¹⁰ *U.S. v. Barvies*, 11 Phil. 327 (1908) and *Weigall v. Shuster*, 11 Phil. 340 (1908).

¹¹ *Official Opinions of the Secretary of Justice as Attorney-General of the Philippines, Second Series, Vol. I, Manila, 1939*, pp. 649-654.

¹² C. A. No. 638, Sec. 1 (4), June 10, 1941; *People v. Que Po Lay*, G. R. No. L-6791, March 29, 1954.

¹³ *Ang Tibay v. Court of Industrial Relations*, 69 Phil. 635 (1940).

mind" might accept as adequate to support a conclusion. Fourth, the decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected. Fifth, the administrative tribunal must act on its own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision. Finally, the tribunal should, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the issues involved, and the reasons for the decisions rendered.¹³

NATIONAL REGULATORY AGENCIES

The Public Service Commission, originally created in 1913 as the Board of Public Utility Commissioners,¹⁴ is the oldest regulatory agency in the Philippines. Up to the ratification of the Constitution, which ushered in the Commonwealth regime, no other administrative agency of note was created by the legislature. However, with the constitutional recognition of the active role of the state in regulating the economic life of the nation to promote the security and well-being of the people,¹⁵ the number of regulatory agencies increased at a rapid pace.

The Securities and Exchange Commission was created in 1936¹⁶ to regulate the sale of securities and protect the investing public against unsubstantial schemes and the securities based upon them. The following day, a Radio Board¹⁷ was created. A few days later, provisions was made for a Court of Industrial Relations¹⁸ in line with the constitutional policy of providing protection to labor.¹⁹ The same year also witnessed the creation of a Bureau of Aeronautics to enforce the provisions of the Civil Aviation Law,²⁰ and in 1940 the Bureau of Immigration was established and entrusted with the enforcement of the Immigration Act.

The growth of regulatory agencies was further accentuated when the country attained independent status. Congress established an independent patent system and created the Patent Office in 1947.²¹ The following year the Monetary Board of the Central Bank was created to administer the monetary and banking system of the Republic.²² The Wage Administration Service came into existence in 1951,²³ and two years later, a law was passed providing for a Workmen's Compensation Com-

¹⁴ Act No. 2307, Dec. 19, 1913; Act No. 3108, March 19, 1923; Act No. 3844, Nov. 9, 1931.

¹⁵ Constitution, Art. II, Sec. 5 and Art. XIV, Sec. 6.

¹⁶ C.A. No. 83, Oct. 26, 1936.

¹⁷ C.A. No. 98, Oct. 27, 1936.

¹⁸ C.A. No. 103, Oct. 29, 1936.

¹⁹ Constitution, Art. XIV, Sec. 6.

²⁰ C.A. No. 168, Nov. 12, 1936, Pursuant to Executive Order No. 94, Oct. 1947, the Bureau of Aeronautics was transformed into the Civil Aeronautics Administration.

²¹ R.A. No. 165, June 20, 1947.

²² R.A. No. 265, June 15, 1948.

²³ R.A. No. 602, April 6, 1951.

mission in the Department of Labor.²⁴ Other government agencies performing regulatory functions are the office of the Insurance Commissioner²⁵ and the various boards of examiners for different professions.²⁶

Considered as the outstanding regulatory tribunals and boards are the Public Service Commission, the Securities and Exchange Commission and the Court of Industrial Relations.

The Public Service Commission. The Public Service Commission exercises jurisdiction, supervision and control over practically all public services in the country, together with their franchises, equipment and other properties.²⁷ Its main objective is to see that operators of these utilities render safe, adequate and satisfactory services to the public. In the exercise of its jurisdiction over public utilities, the Commission grants *certificates of public convenience* and *certificates of public convenience and necessity*.²⁸ A certificate of public convenience and necessity is issued to a public service which is required to secure a franchise from Congress or from a municipal or city council before it can operate. The certificate of public convenience is required of a public utility for which a franchise is not a condition precedent to operation.²⁹ The Public Service Commission also makes periodic inspections of the equipment of operators of public services to assure compliance with the conditions essential to the retention of certificates.

The Commission is composed of a Public Service Commissioner and two Associate Commissioners appointed by the President with the consent of the Commission on Appointments.³⁰ The Commissioners divide their cases among themselves for the purpose of hearing arguments and reviewing evidence.³¹ The staff of the Commission is organized into five divisions; namely, the Legal Division, the Finance and Rates Division; the Transportation Division, the Industrial Division, and the Administrative Division. These divisions perform the clerical and technical tasks of the Commission and serve as its staff agencies.³² Attorneys of the legal division and division chiefs who are lawyers may be authorized by the Commission to hear and investigate cases filed with it, and evidence received by those officials is submitted to the Commission and utilized as the basis of its decision.³³

Foremost among the powers of the Commission is that of prescribing, after due notice and hearing, individual or joint rates to be observed

²⁴ R.A. No. 889, June 19, 1953.

²⁵ Act No. 2427, Dec. 11, 1914 and R.A. No. 275, June 15, 1948.

²⁶ Act No. 4007, Dec. 5, 1932, as amended by R.A. No. 546, June 17, 1950.

²⁷ C.A. No. 287, Sec. 13 (a).

²⁸ C.A. No. 146, Secs. 15 and 16 (a).

²⁹ C.A. No. 146, Sec. 16 (b).

³⁰ C.A. No. 146, Sec. 2, as amended by R.A. No. 178, June 21, 1947.

³¹ C.A. No. 146, Sec. 3, as amended by R.A. No. 178.

³² *Organization Charts of Philippine Government: Department of Justice, Institute of Public Administration, Manila, Sept. 1954.*

³³ R.A. No. 723, Sec. 3, June 6, 1952.

by public service companies.³⁴ Provisional determination of rates without a prior hearing may be made by the Commission on condition that a hearing on the matter is called within thirty days thereafter.³⁵ In determining such rates, the Commission exercises discretion which, except in the event of abuse of power, will not be interfered with by courts.

Applications for certificates of public convenience and certificates of public convenience and necessity are filed before the Commission, docketed and set for hearing. A written opposition to the application may be filed by any party who contests the granting of authorization to the applicant. Evidence in support of and against the application is adduced by the applicant and the oppositors. After the evidence is submitted and arguments are in, the Commissioner considers the evidence and renders a decision, either ordering the issuance of the appropriate certificate or denying the application.³⁶

The Commission is empowered to investigate, upon its own initiative or on complaint in writing, any just cause or grievance against public service utilities, and to enforce compliance with its rules and regulations.³⁷ At the hearing of a complaint, evidence is presented by the complainant and the respondent, after which the Commission renders its decision either acquitting the respondent or convicting and imposing upon him such penalty as the facts may warrant.³⁸ Failure of a public concern to comply with the Commission's regulations makes it subject to fine.³⁹ Also, rates charged in excess of those allowed by the regulations must be refunded upon order of the Commission.⁴⁰ Nor are these sanctions exclusive, for additional remedies may be granted by Courts of First Instance to prevent continued violation of the Commission's regulations. The Commission may call upon any law-enforcement agency to enforce the Public Service Act as well as its own rules and regulations. It may likewise resort to the drastic measure of revoking certificates of public convenience and certificates of public convenience and necessity of offending companies.⁴¹

Securities and Exchange Commission. The Securities and Exchange Commission was created primarily to regulate the sale of securities.⁴² Through the years it has been given additional related functions, such as the registration of domestic corporations and all other forms of associa-

³⁴ C.A. No. 146, Sec. 16 (c).

³⁵ *Ibid.*

³⁶ Generoso Almaro, *The Public Service Act* (Annotated), Manila, 1948, pp. 160-161.

³⁷ *Philippine Shipowner's Association v. Cui*, 48 Phil. 377 (1925).

³⁸ Generoso Almaro, *op. cit.*, p. 164.

³⁹ C.A. No. 146, Sec. 21.

⁴⁰ *Everett Steamship Corporation v. Chuahiong and Public Service Commission*, G.R. No. L-2933, Sept. 26, 1951.

⁴¹ C.A. No. 146, Sec. 16.

⁴² C.A. No. 83, Oct. 26, 1936.

tion and the enforcement of laws affecting such entities,⁴³ and also the licensing of foreign corporations.⁴⁴

The Commission is headed by a Commissioner appointed by the President with the consent of the Commission on Appointments. He is assisted by a Deputy Commissioner who is appointed in the same manner. The Commission's staff is organized into four divisions; namely, (1) Securities and Corporations Division, (2) Brokers and Exchanges Division, (3) Examiners and Appraisers Division, and (4) Administrative Division.

The Commission is vested with authority to make rules and regulations which it deems necessary in the public interest or for the protection of investors. Thus, it can limit the amount of credit that initially may be extended and maintained on any security registered on a securities exchange as a means of preventing the excessive use of credit for the purchase of securities.⁴⁵ It may restrict the borrowing capacity of members, brokers, and dealers in the securities exchange by fixing the maximum total indebtedness that they may incur.⁴⁶ Furthermore, it may regulate floor trading by members of securities exchanges,⁴⁷ and may provide for the regulation of all transactions by brokers and dealers, specifically to avoid the creation of a market, other than a securities exchange, for the purchase and sale of any security.⁴⁸

Securities can be offered for public sale, and exchanges may be operated only after registration with the Commission. Brokers, dealers and salesmen of securities are also required to register before they can legally transact business.⁴⁹ The conditions governing such registrations are set forth in the Commission's rules and regulations, which are designed to free the securities market from artificial influences and to maintain an honest market where prices are free from manipulative activity. Such rules become effective when approved by the Secretary of Commerce and Industry, and are issued in the form of circulars and memoranda.

Regulation of the financial activities of private corporations and other forms of association also fall within the jurisdiction of the Securities and Exchange Commission. In the enforcement of laws affecting such associations, the SEC may conduct such investigations as it considers necessary.⁵⁰ The Legal and Enforcement Division conducts the investigations upon receipt of sworn written complaints of stockholders or other interested parties, or upon order of the President in the exercise of his visitorial power.

All hearings and investigations of the Commission are conducted in

⁴³ C.A. No. 287, June 3, 1938.

⁴⁴ R.A. No. 1055, June 12, 1954.

⁴⁵ C.A. No. 83, Sec. 18.

⁴⁶ *Ibid.*, Sec. 19.

⁴⁷ *Ibid.*, Sec. 22.

⁴⁸ *Ibid.*, Sec. 25.

⁴⁹ *Ibid.*, Sec. 14.

⁵⁰ C.A. No. 287, Sec. 1.

accordance with its own rules. In such proceedings it is not bound by technical rules of evidence, but any person investigated is entitled to be informed of the charges against him and to defend himself accordingly.⁵¹ During the course of an investigation, the Commission is authorized to administer oaths, subpoena witnesses and require the production of relevant documents. Its officials are empowered to examine pertinent books of accounts of corporations.

The Commission can suspend or withdraw the registration of a securities exchange after proper investigation and hearing. Likewise, it can suspend or expel from a securities exchange any member or officer thereof. If in its opinion the public interest so requires, it can summarily suspend trading in any registered securities exchange for a period not exceeding ten days. Also, it can summarily punish direct contempts committed against it. In this type of matter, the Commission may request the assistance of the local police for execution of its orders. Violations of its orders, decision or rulings are punishable by a fine not to exceed ₱200 a day,⁵² and the Commission is empowered to collect such fine after due notice and hearings. It is evident that the SEC is equipped with adequate powers for the exercise of its regulatory function.

Court of Industrial Relations. The Court of Industrial Relations is the government instrumentality which settles labor disputes. Invested with broad powers in adjusting controversies between labor and management in industry and in agriculture, the Court was established to implement the constitutional policy of promoting social justice and of affording protection to labor.⁵³ This tribunal partakes more of the nature of an administrative board than of a part of the integrated national judicial system. It is not intended to be a "mere receptive organ of the government." Unlike an ordinary court of justice, the Court of Industrial Relations exercises comprehensive functions in determining disputes between management and labor.⁵⁴ It is placed under the executive supervision of the Department of Justice,⁵⁵ and consists of a presiding judge and four associate judges appointed by the President with the consent of the Commission on Appointments. Each associate judge acts on such matters as the presiding judge designates. He presides over hearings of cases assigned to him and renders decisions thereon.⁵⁶ The presiding judge, assisted by the chiefs of the Legal Division and the Examining Division and three section chiefs, exercise general administrative supervision over court personnel. There is also a Clerk of Court who attends to the agency's administrative functions.⁵⁷

⁵¹ *Ibid.*, Sec. 31 (a).

⁵² *Constitution*, Art. II, Sec. 5 and Art. XIV, Sec. 6.

⁵⁴ *Ang Tibay v. Court of Industrial Relations*, *supra*.

⁵⁵ C.A. No. 103, Sec. 1.

⁵⁶ C.A. No. 103, as amended by C.A. No. 254, March 4, 1938 and C.A. No. 559, June 7, 1940.

⁵⁷ *Government Manual*, 1950, pp. 262-264.

The Court is empowered to conduct hearings in any place for the determination of questions or controversies within its jurisdiction. It hears and determines disputes in the absence of parties summoned or served with notice to appear. Likewise, it may conduct its proceedings or any part thereof in public or in private and adjourn hearing to any time and place.⁵⁸

In the preliminary hearing of a case, efforts are made by the judge to reconcile the parties.⁵⁹ Conciliatory hearings or conferences usually take place before the parties are required to present evidence in a formal trial.⁶⁰ In the formal hearing, investigation and determination of controversies, the Court of Industrial Relations is enjoined by law to act according to justice and equity and substantial merits of the case. The rules of evidence which prevail in courts of law do not control its proceedings.⁶¹ To expedite proceedings, the Court is assisted by assessors, local boards of inquiry and other public officials.⁶² Within the Court itself hearing examiners, attorneys in the local division and division chiefs also assist the Court in receiving evidence in controversies before it.

If an aggrieved party requests reconsideration of a decision of one judge, the case goes to the Court *in banc*. This is an important safeguard against possible bias or prejudice in laying down the factual basis of a ruling or decision.⁶³

At any time during the effectiveness of an award, order or decision, the Court may, on application and after due hearing, modify or set aside such determinations or reopen any question involved.⁶⁴ Decisions of the Court are enforceable by writ of execution or any other remedy provided by law.⁶⁵

Other Regulatory Agencies. The Office of Insurance Commissioner, under the Department of Finance, exercises general supervision over all insurance companies, mutual benefit, relief and benevolent societies, and charitable trusts.⁶⁶ To enable it to protect local policy holders, broad supervisory powers seldom conferred upon parallel administrative agencies are vested in the Office.⁶⁷ It issues licenses and certificates of authority to insurance companies, insurance agents, benevolent societies and charitable trusts, and it is empowered to suspend or cancel the same.⁶⁸ It also gives examinations for persons who desire to become insurance

⁵⁸ C.A. No. 103, Sec. 7.

⁵⁹ C.A. No. 103, Sec. 4.

⁶⁰ JUAN L. LANTINO, "The Court of the Worker", *Sunday Times Magazine*, Feb. 15, 1953, p. 12.

⁶¹ C.A. No. 103, Sec. 20.

⁶² C.A. No. 103, Secs. 8, 9, and 10.

⁶³ LANTINO, *loc. cit.*

⁶⁴ C.A. No. 103, Sec. 17.

⁶⁵ *Ibid.*, Secs. 23-24.

⁶⁶ *Government Manual*, 1950, p. 201.

⁶⁷ *Scottish Union & National Insurance Co. v. Macosdag*, G.R. No. L-5717, Nov. 19, 1952.

⁶⁸ Act No. 2427, Secs. 172-175, 181-182, 194, 186, 189-191, Dec. 11, 1914.

agents. In order to carry out its functions effectively, the Office is organized into three divisions; namely, (1) Legal, Licensing and Complaint Division, (2) Division of Examination and Financial Analysis (3) Administrative Division.

The Insurance Commissioner is empowered to promulgate rules and regulations for proper enforcement of the laws administered by the Office.⁶⁹ Insurance companies which are subject to regulation are given the opportunity to participate in the rule-making process. Heads of the legal departments of these companies are invited to a preliminary discussion of the merits and demerits of a proposed rule. This discussion is followed by a written notice to all insurance companies and/or agents affected by the rule. In case of any disagreement between the Office and the insurance companies, the matter is referred to the Secretary of Finance, whose decision is considered final.

The Insurance Commissioner is also empowered to render decisions on cases brought before him for adjudication. The decision is given after both sides to the controversy have been given the opportunity to present their arguments in writing. In cases of conflicts between policy holders and insurance companies, the decision of the Insurance Commissioner is merely recommendatory. Should the investigation reveal, however, that the proceedings of an insurance company are hazardous to the public or to the policy holders, the license or certificate of authority of the company could be suspended or revoked.⁷⁰ The respondent company may appeal to the Secretary of Finance, whose decision is final.⁷¹

The Patent Office is charged with the administration of the Patent Law⁷² and the Trademark Law.⁷³ Prior to the creation of the Office, a person who desired patent protection within Philippine territory for his invention or design had to apply for a patent from the United States Patent Office.⁷⁴

The Patent Office is headed by a Director and an Assistant Director. It is organized into four separate units; namely, (1) the Patent Unit, (2) the Trademark Unit, and (3) Administrative Unit.⁷⁵ At present this Office is under the executive supervision of the Department of Commerce and Industry.⁷⁶

The Director formulates, with the approval of the Secretary of Commerce and Industry, rules of practice governing office procedures, and he decides questions involving these rules, and other appeals and petitions.⁷⁷

⁶⁹ R.A. No. 275, Sec. 3, June 15, 1948.

⁷⁰ Act No. 2427, Sec. 175.

⁷¹ *Ibid.*, Sec. 192.

⁷² R.A. No. 165, June 20, 1947.

⁷³ *Ibid.*, Sec. 1.

⁷⁴ *First Annual Report of the Philippine Patent Office* Aug. 21, 1947-June 30, 1948), p. 1.

⁷⁵ *Organization Charts of Philippine Government: Department of Commerce and Industry*, Institute of Public Administration, Manila, Sept. 1, 1954.

⁷⁶ Exec. Ord. No. 94, Oct. 4, 1947.

⁷⁷ *Government Manual*, 1950, p. 456.

The principal function of the Patent Office consists in the examination of patent applications to determine whether the invention for which a patent is sought is patentable according to law. This work is undertaken by the four principal examiners of the Patent Unit.⁷⁸ If an application is rejected by the patent examiner, a letter of rejection is transmitted to the applicant, who at this stage of the proceedings may either amend or abandon his application. In the event that an amended application is filed but is still not favorably acted upon, the applicant may then take issue with the examiner by filing a responsive reply with the Patent Office within four months from the date of rejection. A patent issued by this regulatory agency entitles the patentee to the exclusive right to the invention throughout the Philippines for a term of seventeen years.⁷⁹

In the exercise of his adjudicatory functions, the Director enjoys considerable discretion, inasmuch as he is expected to apply his legal as well as technical knowledge. Upon notice to interested parties, he is empowered to cancel a patent on legal grounds.⁸⁰ He also decides appeals from the adverse decisions of the examiners on applications for patents, trademarks and copyrights.

The *Radio Control Board* was created to supervise and control all radio stations and effect urgent reforms in radio broadcasting.⁸¹ Its composition includes the Undersecretary of Public Works and Communications, as chairman, the Press Secretary of the Office of the President, the Director of Public Schools, the Collector of Internal Revenue and the Director of Posts, as members.⁸² The Board is under the executive supervision of the Department of Public Works and Communications.⁸³

The Board examines radio programs of all broadcasting stations in accordance with its rules and regulations. It is empowered to eliminate or cancel from such programs all numbers or parts which in its opinion are "neither moral, educational nor entertaining, and prejudicial to public interest."⁸⁴ This regulatory agency is authorized to revoke the license of any radio station which broadcasts programs or parts thereof in contravention of rules promulgated by the Board.⁸⁵

The *Civil Aeronautics Administration*, together with the Civil Aeronautics Board, is responsible for the promotion, development, and control of air commerce and communication, and other aspects of civil aeronautics in the Philippines.⁸⁶ The agency is under the administrative

⁷⁸ *Loc. cit.*

⁷⁹ R.A. No. 165, Sec. 21.

⁸⁰ R.A. No. 165, Sec. 34.

⁸¹ C.A. No. 98, Sec. 1.

⁸² Exec. Ord. No. 392, Jan. 1, 1951.

⁸³ *Ibid.*

⁸⁴ C.A. No. 98, Sec. 2.

⁸⁵ *Ibid.*, Sec. 3.

⁸⁶ R.A. No. 168, Sec. 2.

supervision of the Department of Commerce and Industry and is headed by an administrator and deputy administrator. Both officials are appointed by the President for an indeterminate period of time and are removable at his will. This regulatory agency performs its functions through six divisions; namely, (1) the Administrative Division, (2) the Safety Regulations Division, (3) the National Airways Division, which supervises Philippine airways, air communication and navigation facilities, (4) the Airports Division, which attends to the engineering aspects of airport planning, design, construction and maintenance, (5) the Manila International Airport Division, (6) the Legal and Economic Affairs Division.⁸⁷

The CAA is empowered to formulate rules and regulations affecting civil aviation and to conduct investigations for the enforcement of such rules.⁸⁸ Violations of agency rules are reported to the central office by field agents stationed in different parts of the nation. The office then proceeds to determine whether a *prima facie* case exists which warrants an investigation. The Administrator may designate any official or employee of the agency to investigate accidents in civil air navigation. Parties concerned are summoned to an administrative hearing conducted by the person designated. Evidence taken during the hearing, together with the investigator's recommendations, are transmitted to the Administrator who decides the case.⁸⁹

The Civil Aeronautics Board exercises general supervision and control over air navigation. It issues certificates of public convenience and necessity to persons and entities desiring to engage in air commerce or air transportation. It can later, suspend or revoke these permits when public interest justifies such action.⁹⁰ The Board was created at the same time as the Civil Aeronautics Administration. While it interests concern primarily the economic aspects of civil aviation, including the rights to operate, it maintains close relationship with the CAA.

The Board is an *ex officio* body. It consists of the Secretary of Commerce as chairman, the Civil Aeronautics Administrator, the Commander of the Philippine Air Force, and two members who are appointed by the President and hold office at his pleasure.⁹¹ The Board exercises rule-making powers and quasi-judicial powers in the exercise of general supervision and control over air navigation.

The *Workman's Compensation Commission*, has jurisdiction over claims for compensation for death, injuries or illness contracted by employees of industrial establishments in the performance of their duties.⁹²

⁸⁷ *Organisation Charts of Philippine Government: Department of Commerce and Industry, Institute of Public Administration, Manila, Sept. 1, 1954.*

⁸⁸ R.A. No. 776, Sec. 32 (9), June 20, 1952.

⁸⁹ Interview with Enforcement Officer, Civil Aeronautics Administration.

⁹⁰ R.A. No. 776, Sec. 11.

⁹¹ R.A. No. 776, Sec. 5.

⁹² Act No. 3428, Dec. 10, 1927.

the same time as the Civil Aeronautics Administration. While is in-
The Commission is an integral part of the Bureau of Labor.⁹³ It receives claims for compensation, and then conducts investigations and hearings through a referee, who determines in the first instance whether the claim is justified or not. After the parties have been duly notified, evidence is received by the Commissioner who decides the case according to its merits.

The Wage Administration Service is responsible for enforcing the provisions of the Minimum Wage Law,⁹⁴ the Eight-Hour Labor Law⁹⁵ and the provisions of the Civil Code regarding domestic help.⁹⁶ In the exercise of its rule-making functions, the Service has to date issued one regulation and three interpretative bulletins.⁹⁷ The Wage Protection Division within the organization, performs quasi-judicial functions and hears, investigates and adjudicates wage claims. This unit also inspects labor centers to determine compliance with the Minimum Wage Law. The Service maintains regional offices under the supervision of regional labor administrators empowered to conduct investigations and submit corresponding reports to the Central Office. In each regional office there is an attorney who attends to the initiation of suits for recovery of wages in court. These regional offices are kept apprised of their objectives through manuals, policy guides and instructions which are transmitted to them from time to time.

A claim regarding non-payment or under-payment of wages is filed either with the service or with one of its regional offices. The parties are summoned for conference within forty-eight hours, and the respondent is investigated to verify the merits of the claim. If the initial attempt at reconciliation and amicable settlement fails, a formal hearing is conducted. At the termination of the hearing, a decision is made and the parties are notified of the decision. If the order is not complied with after the lapse of five days, a suit is instituted in court by the Service to seek judicial enforcement of the order.⁹⁸ A party not satisfied with the award, order or decision of the Service can have his rights adjudicated in the trial by regular courts of justice.

The Monetary Board of the Central Bank was created to maintain monetary stability, preserve the international value and convertibility of the peso, and promote a rising level of production, employment and real income.⁹⁹ This board consists of seven members with the Secretary

⁹³ *Government Manual*, 1950, p. 384.

⁹⁴ R.A. No. 602, April 6, 1951.

⁹⁵ C.A. No. 444, June 3, 1939.

⁹⁶ *Civil Code*, Arts. 1689-1699.

⁹⁷ Committee on Finance, Senate of the Philippines, *Transcript of Budget Hearings for the Fiscal Year 1955-1956* (Committee hearing, March 30, 1955).

⁹⁸ *Code of Policies and Procedures for the Use of Regional Offices Insofar as Wage and Hour Laws are Concerned*. (Undated mimeographed code published by the Wage Administration Service.)

⁹⁹ R.A. No. 265, Secs. 2 and 14.

of Finance as the presiding officer, and includes the Governor of the Central Bank, the President of the Philippine National Bank and the Chairman of the Board of Governors of the Rehabilitation Finance Corporation. Three members representing financial, agricultural, industrial and commercial interests are appointed for terms of six years by the President with the consent of the Commission on Appointments.¹⁰⁰

The Board determines and fixes foreign exchange rates as well as the rates for other types of international exchange transactions.¹⁰¹ With the concurrence of five of its members, and upon approval by the President, it may make emergency restrictions on exchange operations.¹⁰² Circulars and memoranda are issued from time to time by the Monetary Board concerning matters within its jurisdiction. As a regulatory board it is vested with extensive authority concerning the establishment, operation and liquidation of banking and credit institutions.¹⁰³

The Bureau of Immigration is concerned with the control and regulation of the entry of aliens into the Philippines as well as with their activities after admission.¹⁰⁴ The Bureau is headed by a Commissioner who is assisted by two Deputies. They are appointed by the President with the consent of the Commission on Appointments and hold office at the President's pleasure.¹⁰⁵

The Commissioner of Immigration issues rules and regulations, subject to the approval of the department head, in order to implement and enforce the immigration laws.¹⁰⁶ He prescribes forms of bond, reports, and other papers to carry out the provisions of the law,¹⁰⁷ and is empowered to exact bonds in such amounts and containing such conditions as he may prescribe.¹⁰⁸ He is also authorized to issue warrants of arrest and warrant of deportation.¹⁰⁹ The Commissioner allots quota numbers to be placed upon the immigration visas of aliens who fall under the category of quota immigrants.¹¹⁰ He likewise designates the ports at which aliens may enter. Upon sufficient notice to the public, he may close such ports whenever he deems it advisable in the public interest.¹¹¹ Finally, the Commissioner has the authority to remove any alien in distress or public need who wishes to return to his home land, providing his distress arose subsequent to his entry into the Philippines.¹¹²

¹⁰⁰ *Ibid.*, Sec. 5.

¹⁰¹ *Ibid.*, Sec. 76.

¹⁰² *Ibid.*, Sec. 74.

¹⁰³ *Ibid.*, Sec. 139.

¹⁰⁴ Cf. C.A. No. 613, August 26, 1940; R.A. No. 562, June 17, 1950.

¹⁰⁵ C.A. No. 613, Secs. 2-4.

¹⁰⁶ *Ibid.*, Sec. 3.

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*, Sec. 40.

¹⁰⁹ *Ibid.*, Sec. 37 (a).

¹¹⁰ *Ibid.*, Sec. 18.

¹¹¹ *Ibid.*, Sec. 24.

¹¹² *Ibid.*, Sec. 43.

The examination of aliens concerning their right to enter or remain in the Philippines is performed by immigrant inspectors. For this purpose, immigrant inspectors administer oaths and take and consider evidence. If an examining inspector doubts the eligibility of any alien to land at the port of arrival, the alien is detained for examination by a board of special inquiry.¹¹³ Every board of special inquiry is composed of a chairman and two members appointed by the President alone and removable at his pleasure.¹¹⁴ Presently there are five such boards.¹¹⁵ A board of special inquiry determines whether an alien may enter the country or not. In the exercise of this function, the board or any member thereof, may administer oaths, subpoena witnesses, require the production of documents by subpoena *duces tecum*, and take evidence.¹¹⁶ Assignment of cases to boards is made every morning or at a convenient time by the immigration official in charge at the port of entry.¹¹⁷ The boards conduct closed-door hearings, and the proceedings as well as the decisions are recorded. The applicant is entitled to present witnesses, but he may not be represented by a counsel. He may have one friend or relative present after the preliminary part of his hearing. When the hearing is concluded, the board deliberates immediately and renders its decision. The decision of any two members of the board is final unless reversed on appeal to the Board of Commissioners.¹¹⁸

The Boards of Examiners are responsible for regulating and controlling the practice of their respective professions and related vocations. There are 17 national boards of examiners of which the Commissioner of Civil Service is executive secretary,¹¹⁹ and there are certain units under six of the executive departments,¹²⁰ and the Supreme Court.¹²¹

Each board of examiners is composed of a chairman and two members who are appointed by the President upon recommendation of the Commissioner of Civil Service. It is the duty of these boards to set standards for the practice of their respective professions and to prescribe courses of study for the same. They conduct periodic examinations to determine the qualifications and training of candidates for admission to the various professions. They are also empowered to promulgate

¹¹³ *Ibid.*, Sec. 26

¹¹⁴ *Ibid.*, Sec. 27 (a).

¹¹⁵ *Government Manual*, 1950, p. 270.

¹¹⁶ *Admin. Ord. No. 1*, Bureau of Immigration, Jan. 1, 1941, Sec. 6.

¹¹⁷ *Ibid.*, Sec. 7.

¹¹⁸ C.A. No. 613, Sec. 27 (a).

¹¹⁹ Act. No. 4007, Sec. 10, as amended by R.A. No. 546, June 17, 1950.

¹²⁰ For a list of these units and the different professions and vocations regulated see *Regulation of Professions*, Government Survey and Reorganization Commission, Manila, Feb., 1955, pp. 19-22.

¹²¹ *Rules of Court*, Rule 127, Sec. 12.

rules and regulations, including penal provisions, with the advice of the Commissioner of Civil Service and subject to approval of the President.¹²²

Each board must look into the condition affecting the practice of its profession so that it can regulate and recommend to the proper authorities the adoption of measures necessary and proper for the maintenance of good professional ethics and standards. Each board has the power, upon notice and hearing, to suspend and revoke any certificate of registration for cause. Each board may likewise investigate and take cognizance of acts and practices constituting a violation of the laws or rules and regulations pertinent to the profession regulated.

In the exercise of their functions, the boards are assisted by the Office of the Boards of Examiners, the executive secretary of which is the Commissioner of Civil Service. Through each chairman, an individual board may subpoena witnesses, compel their attendance, and require the production of material documents. Any member of a board may administer oaths. The boards, however, depend upon Courts of First Instance for the enforcement of their orders.

JUDICIAL REVIEW OF ACTIONS OF REGULATORY AGENCIES

No precise rule of general applicability governing judicial review of decisions of regulatory agencies can be laid down. Rules regarding judicial review vary according to the character of the agency concerned and the nature of the rights and interests involved in the administrative process. In the course of decisions rendered by the Supreme Court, however, certain doctrines respecting judicial review have been enunciated.

Exhaustion of Administrative Remedies. It is the responsibility of a regulatory agency to decide cases within its jurisdiction, and courts will not entertain proceedings unless the aggrieved party has exhausted administrative remedies provided for by law.¹²³ For instance, a public service operator who feels that his rights are being adversely affected could avail himself of a speedy remedy in a hearing before the Public Service Commission. He must exhaust that remedy first before coming to the Supreme Court for relief.¹²⁴

Administrative Finality. Determinations of a regulatory agency, when promulgated within the broad field of properly delegated legislative power and discretion, are conclusive. The rationale of this doctrine finality is that a regulatory agency is better qualified technically

¹²² Act No. 4007, Sec. 10, as amended.

¹²³ *Fisher v. Yangco Steamship Co.*, 31 Phil. 1 (1915).

¹²⁴ *M. D. Transportation Co. v. Public Service Commission and the Manila Railroad Co.*, 59 Phil. 173 (1933); *Viuda e Hijos de Roxas v. Rafferty*, 37 Phil. 957 (1918); *Miguel v. Vda. de Reyes*, G.R. No. L-4851, July 31, 1953 and *Coloso v. Board of Accountants*, G.R. No. L-5750, April 20, 1953.

with respect to the intricacies of the subject matter of regulations than regular courts. Hence, it has been held that findings on the weight of evidence by the Court of Industrial Relations, when supported by substantial or credible proof, are binding on the reviewing court.¹²⁵ Decisions of courts have considered determinations of administrative boards and officers final in the absence of abuse of authority or excess of jurisdiction in cases involving deportation of aliens,¹²⁶ regulation of professions¹²⁷ and the use of the postal service.¹²⁸

Distinction Between Questions of Law and Questions of Fact. Regulatory agencies fill in interstices deliberately left open by law in accordance with general standards laid down by Congress. Courts see to it that these agencies operate within the sphere of authority fixed by Congress. In reviewing administrative findings and conclusions, courts place emphasis on whether the action to be reviewed involves a question of law or of fact. Determinations of regulatory bodies on the facts are accorded by reviewing courts considerable though varying degrees of respect. On matters of law, however, the reviewing tribunal feels free to substitute its own judgment.

This distinction between questions of law and fact is usually incorporated in statutory provisions for judicial review. Thus, only questions of law may be the subject of review of decisions of the Court of Industrial Relations.¹²⁹ The Supreme Court will refrain from substituting its discretion for that of the Public Service Commission on questions of fact, its jurisdiction being limited to instances where reasonable support in the evidence is lacking or when the Commission's orders are contrary to law.¹³⁰ This rule on the conclusiveness of findings of fact is likewise applicable to decisions of the Civil Aeronautics Board.¹³¹ Occasionally, however, questions of law and fact merge in a case. This situation gives rise to a third class of question involving "mixed questions of law and fact," which is made subject to judicial review.¹³²

Extraordinary Legal Remedies. In the absence of express statutory authority providing for judicial review, an aggrieved party will have recourse to extraordinary legal remedies embodied in the Rules of Court. Abuse of discretion and lack or excess of jurisdiction are the statutory grounds for resort to these extraordinary or special civil action.¹³³

¹²⁵ *Union of the Philippine Education Employees v. Philippine Education Co.*, G.R. No. L-4423, March 31, 1952.

¹²⁶ *And Eng Chong v. Collector of Customs*, 23 Phil. 614 (1912).

¹²⁷ *Marques v. Board of Medical Examiners*, 47 Phil. 761 (1925).

¹²⁸ *Reyes v. Topacio*, 44 Phil. 207 (1922).

¹²⁹ C.A. No. 103, Sec. 35 and R.A. No. 825, Sec. 6.

¹³⁰ C.A. No. 146, Sec. 35. See also *San Miguel Brewery v. Espiritu*, 72 Phil. 344 (1941).

¹³¹ R.A. No. 677, Sec. 9.

¹³² *Bogardus v. Commissioner of Internal Revenue*, 302 U.S. 34 (1937).

¹³³ These include certiorari, prohibition, mandamus, quo warranto and injunction

SUMMARY

Indicative of the characteristic simplicity of primitive society were the limited activities engaged in by tribal clans. Feudal society was confronted with two main problems: collection of tributes and protection from external aggression. In contra-distinction is the magnitude of the scope of governmental functions in the twentieth century. Of necessity, provision must be made for institutional arrangements and techniques to discharge the ever-increasing functions of the state. To achieve constitutional objectives, regulatory statutes are enacted by Congress and their implementation is entrusted to regulatory agencies. Agencies are also established to secure a desirable economic balance and maintain social equilibrium. These agencies pass upon matters which affect varied aspects of the national economy.

Regulatory agencies are vested by law with the power to make rules concerning, and to adjudicate, conflicting rights and interests. Within the sphere delineated for them by law, these agencies act primarily as arbiters. Viewed from this perspective, their role in public administration is brought into clear focus. The advantages secured through the administrative agencies which perform legislative and judicial acts "only softened by a quasi"¹⁸⁴ attests to the recognition of the role that these regulatory agencies have in modern society. Matters normally litigated in court are settled by regulatory agencies in an atmosphere of technical expertise and comparative informality. Their technical determinations are generally made conclusive and binding upon the interests regulated, subject to adequate provision for review of legal questions by the courts. Due process consistent with protection of individual liberties has to be observed in the regulatory proceedings, and in addition, the citizen can avail himself of special civil actions in challenging administrative action.

Regulatory agencies are designed primarily to cope with problems which beset modern states. In the discharge of its functions, government is usually confronted with intricate technical problems which can best be solved by specialized bodies. Thus, regulatory agencies implement regulatory statutes, supplement the judicial process, and contribute to the attainment of efficiency and economy in public administration.

¹⁸⁴ Justice Holmes in his dissenting opinion in *Springer v. P.J.*, 227 U.S. 189, 210, 72 L. ed., 845 (1928).

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