ADMINISTRATIVE LAW

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The fast-multiplying regulatory agencies represent a pulsant answer to modern economic and social problems brought about by industrialism. This ever-widening area of control presently covers insurance, banking, industry, public utilities, finance, the professions, health and morals. It becomes inescapably necessary that the government, in the face of clashing economic and social forces, must assume a robust posture as "the powerful promoter of society's welfare" if it must accord to the individual protection of his traditional liberty. In this respect, that branch of the law which we call administrative law finds its fitting place and application.

I. POWER

1. COURT OF INDUSTRIAL RELATIONS ADJUDICATION

That the Court of Industrial Relations is not divested of its jurisdiction already acquired [1] by the retraction or withdrawal of some of the petitioning employees was held in *Buklod ng Saulog Transit v. Casalla.*[2] Sixty-five employees out of a total of 584 workers of the Saulog Transit filed in the Court of Industrial Relations a petition for a certification election for the purpose of determining the sole bargaining representative of the employees. Of the 65, 3 were supervisors and 20 subsequently retracted. Upon due hearing, the Court of Industrial Relations granted the petition and ordered a certification election in accordance with section 12 of Republic Act No. 875.

The petitioner labor union contended that the Court of Industrial Relations erred in holding that it did not lose its jurisdiction despite the fact that the respondents (petitioning employees) were reduced to less than 10% of the appropriate unit.

In sustaining the jurisdiction of the Court of Industrial Relations, the Supreme Court reiterated the rule in previous cases[3] to the

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* Member, Student Editorial Board, 1956-57.

1 San Beda College v. CIR, 51 O.G. 5636 (1955).

2 G.R. L-8049, May 9, 1956.

3 G.R. No. L-8049, May 9, 1956; Manila Hotel Employees Ass'n. v. Manila Hotel Co., 73 Phil. 374 (1941); Mortera v. CIR, 45 O.G. 1714 (1947); Pepsi Cola v. National Labor Union, 46 O.G. Supp. 1, 136 (1948); San Miguel Brewery v. CIR, G.R. No. L-4456, April 28, (1952); Luzon Brokerage v. Luzon Labor Union, 48 O.G. 3883 (1952); La Campana Coffee Factory v. Kaisahan ng mga Manggagawa, 49 O.G. 2300 (1953); PLASLU v. CIR, 49 O.G. 3859 (1953); Standard Vacuum Oil v. Orsan, G.R. L-7540, May 25, 1955; San Beda College v. CIR, 51 O.G. 5636 (1955).

effect that "the Court of Industrial Relations acquires jurisdiction of industrial dispute upon the filing of a petition by 31 employees bringing such dispute to the Court for determination, and the diminution in number by retraction or withdrawal of any of them does not divest it of its jurisdiction already acquired." Moreover, as found by the Court of Industrial Relations, the retraction by some members who originally had signed the petition was not of their own free will.

In *Luzon Brokerage Co. v. CIR*,[4] petitioner contested the jurisdiction of the Court of Industrial Relations on the ground that the majority of the claimants for backpay against the company had ceased from their employment and therefore there was no employer-employee relationship over which jurisdiction might be assumed by the Court.

The Supreme Court sustained the Court of Industrial Relations since the company itself impliedly admitted that some of the claimants were still employed by it; hence their backpay claims remained a potential source of labor-management dispute.

Petitioner in *Caltex (Phil.) Inc. v. Katipunan Labor Union*[5] dismissed an employee belonging to the respondent union for alleged inefficiency. Thereupon, respondent filed with the Court of Industrial Relations a petition alleging that the dismissal was without investigation in violation of the terms of the agreement previously entered into between the parties. This petition was received by the CIR on June 24, 1953, or seven days after the approval of the Industrial Peace Act,[6] although it was mailed prior to the passage of the Act.

The CIR ordered the provisional reinstatement of the employee pending a hearing on the merits. Accordingly, petitioner interposed this appeal contending that the Court had no more power to compel reinstatement under the Industrial Peace Act.

The Supreme Court, however, ruled that Republic Act No. 875 had no application to the instant case since it is a judicial practice to consider the mails as an agent of the government so that the date of mailing is always considered as the date of filing of the petition. Hence the petition must be deemed filed before the passage of the Act.

As to the contention that the dismissal was not a labor dispute, the court said:

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[4] G.R. No. L-9446, Dec. 29, 1956.
[5] G.R. No. L-7496, Jan. 31, 1956.
[6] The Act took effect on June 17, 1953.

> "The existing agreement between the union and the petitioner that no employee should be dismissed without notice and an opportunity for hearing is a condition or term of the employment agreement. The enforcement of the agreement is not the concern of the employee affected alone, but that of the whole labor union to which he belongs. There is a labor dispute because there is controversy between the union and the employer."

Even under the Industrial Peace Act the above ruling may be supported. The CIR may assume compulsory jurisdiction under it over a case where the employee is discharged for union activities, since such act constitutes an unfair labor practice falling within the exclusive jurisdiction of the CIR.[7]

And under the provision of the Industrial Peace Act granting the CIR exclusive jurisdiction over unfair labor cases, the Supreme Court in the case of *National Garments Textiles Workers' Union v. Caluag*[8] held that acts of violence and coercion arising from such prohibited practices fall under the CIR's injunctive power, courts of justice, like the Court of First Instance, being devoid of authority to enjoin said acts.

In this case, petitioning union declared a strike and posted pickets in the factory owned by Ang. The CFI of Rizal, upon Ang's petition alleging the commission of violence on the part of the strikers and without setting the petition for hearing, issued a preliminary writ of injunction.

Before the filing of the above petition for injunction, two unfair labor cases regarding the same dispute had been filed with the CIR involving the petitioner and employer Ang.

On petition for certiorari to the Supreme Court, the trial court was deprived of jurisdiction on the ground that the issue presented before it was tied up with the unfair labor cases pending before the CIR as to which its jurisdiction is exclusive even if they involve acts of violence. Even if it be assumed that the trial court had jurisdiction, the Court commented, still the injunction it had issued suffered from a procedural defect, it appearing that the procedure[9] laid down in the Act as a prerequisite for the granting of the relief was not observed.

The rule that the CIR has jurisdiction over any dispute between any government-owned corporation and its employees, although the latter are subject to the civil service law, first enun-

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[7] §5, par. (a), Rep. Act No. 875.
[8] G.R. No. L-9104, Sept. 10, 1956.
[9] §9, par. (a), Rep. Act No. 875.

ciated in *Manila Hotel Employees Ass'n. v. Manila Hotel Co.*,[10] was reaffirmed by the Supreme Court in the case of *GSIS v. Castillo*.[11]

In the *Castillo* case, the government employees declared a strike as a result of the denial by the Board of Trustees of their demands. The strike was certified to the CIR. The petitioner impugned the jurisdiction of the CIR contending first, that the GSIS was performing a governmental function, hence its employees cannot strike and secondly, that the demands of the employees were governed by the Civil Service Law.

Deciding against the GSIS on both contentions, the Supreme Court ruled that the business of insurance engaged in by petitioner was essentially a private business and that civil service employees, by the mere fact of being so, were not thereby excluded from the jurisdiction of the CIR.

In the foregoing decided cases, the CIR properly assumed jurisdiction and the Supreme Court accordingly sustained the assumption of jurisdiction. The CIR, of course, may refuse to entertain authority for lack of any of the jurisdictional requisites. A petition by less than 30 employees may not be heeded.

Thus, in *Cosmopolitan Workrs' Union v. Panciteria Moderna*,[13] the Industrial Court denied the petition filed by 17 of the 70 employees of the respondent restaurant, because the required jurisdictional number, i.e., 31, was lacking.

The Supreme Court affirmed the denial, holding that the CIR can only act upon the petition when filed by more than thirty employees. The Court held that "a contrary interpretation would give a single employee a right to file a petition against his employer, even against the will of his co-workers, if the result of the petition may affect all of them, which interpretation is beyond the provision of the law."

2. PUBLIC SERVICE COMMISSION

The jurisdiction, supervision and control of the Public Service Commission extend over all public services.[14] This includes the supervision of steamboat services. However, the Public Service Commission cannot require steamship lines to obtain certificates of public convenience or to prescribe their respective routes or times of service.

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[10] 73 Phil. 374 (1941).
[11] G.R. No. L-7175, April 27, 1956.
[12] §10, Industrial Peace Act.
[13] G.R. No. L-7326, May 11, 1956.
[14] §13, par. (a), Com. Act No. 146 as amended by Com. Act No. 454.

Thus, in *Javellana v. Public Service Commission*,[15] the Supreme Court, while it denied the power of the PSC to grant a certificate of public convenience to the applicant operating steamboats, sustained the supervisory power of the Commission over said steamboat services. Here, Baron applied for a certificate of public convenience to operate an exclusive ferry service between Calapan, Mindoro and Batangas, Batangas. Javellana, competitor on the same line, opposed the application on the ground that the Commission had no jurisdiction to act upon and grant the same because the motorboat service between the two points was not a ferry service but coastwise trade falling within the jurisdiction of the Bureau of Customs.

The Commission granted a provisional, though not exclusive, permit. Petitioner's motion for reconsideration was denied; hence appeal was brought to the Supreme Court.

The Supreme Court declared that the motorboat service between Mindoro and Batangas was indeed a coastwise trade involving as it does the crossing of a wide, dangerous open sea. But whether said service is regarded as a ferry or coastwise, as long as the watercraft used are steamboats or motorboats, the Commission nevertheless has the power of supervision and control in so far as it involves the prescribing of the schedule of trips and the rates to be charged.

3. COURT OF TAX APPEALS

The law[16] creating the Court of Tax Appeals vests in the Court exclusive appealate jurisdiction over decisions of the Collector of Internal Revenue in cases involving disputed assessment or other matters arising under the National Internal Revenue Code or other tax laws. By virtue of Republic Act No. 55, the Collector is empowered to make all assessment of war profits tax.

On the strength of the above law, the Supreme Court in *Castro v. David*[17] upheld the exclusive jurisdiction of the Tax Court to hear and decide disputed rulings of the Collector regarding the assessments of war profits taxes. The defendant collector levied upon and distrained Maria Castro's properties in order to satisfy the latter's war profits tax and surcharge liabilities. The properties were put on sale at public auction and were forfeited, when no bid was offered, to the government. Hence this suit was instituted

[15] G.R. No. L-9088, April 28, 1956.
[16] §22, Rep. Act No. 1125.
[17] G.R. No. L-8508, Nov. 29, 1956.

in the CFI of Manila against respondent Collector to question the legality of the assessment.

Awad & Company filed a complaint in intervention, claiming as its own some blocks of the properties forfeited to the Government. The Solicitor-General moved for the transfer of the case to the Tax Court.

Affirming as correct the CFI's certification of the case to the Tax Court, the Supreme Court observed that the intervenor may pursue its remedy in the Court of Tax Appeals which is competent to pass upon the incidental question of ownership to determine whether the properties were that of the delinquent taxpayer's or of the intervenors'.

In *NAMARCO v. Macadaeg*,[18] the respondent judge of Manila was denied the power to enjoin the NAMARCO from selling to the public upon order of the Commissioner of Customs, impounded garlic on the reason that the decisions of the Commissioner of Customs on forfeiture cases are exclusively appealable to the Tax Court, all other courts excluded.

4. COMMISSIONER OF CUSTOMS

It is a settled rule that a Court, be it judicial or administrative, once it has acquired jurisdiction over a case, retains it even after the expiration of the law governing the case until the case is finally decided. Thus the decision of the Commissioner affirming that of the Collector of Customs stands even when said decision has been rendered several days after the expiration of the law governing the case it being shown that the Commissioner has duly acquired jurisdiction while said law was in force.[19]

5. COMMISSIONER OF IMMIGRATION

That the Commissioner of Immigration can validly limit the period of stay in the Philippines as immigrants of aliens admitted on pre-arranged employment[20] is again affirmed in *Ang Koo Ling v. Board of Commissioners*,[21] where the petitioner was admitted on the express condition that his stay would not exceed two years, the Supreme Court held that the Commissioner was validly authorized to impose the limitation.

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18 G.R. No. 10030, Jan. 18, 1956.
19 Roxas v. Sayoc, G.R. No. L-8502 Nov. 29, 1956.
20 Chang Yung Fa, *et al.* v. Hon. Guianson, G.R. No. L-7785, Nov. 25, 1955.
21 G.R. No. L-8789, May 18, 1956.

6. BUREAU OF IMMIGRATION

The decision of an investigator cannot be considered as a valid and binding decision of the Board of Special Inquiry which by law is composed of a Chairman and two members appointed by the President of the Philippines and whose decision, to be valid needs the concurrence of two members.[22] Thus, in *Dayata v. Commissioner of Immigration*,[23] petitioner's contention that the report of the investigator favorably recommending his documentation as a Filipino citizen was a binding decision of the Board of Special Inquiry was overruled by the Supreme Court.

Petitioner applied for documentation as Filipino citizen. In connection with this petition, an investigator was named from the Bureau of Immigration who subsequently submitted his report finding petitioner as an illegitimate son of Filipino woman. The Department of Justice, however, disapproved this report. Meantime, Dayata petitioned the CFI of Manila to admit him as a Filipino citizen. The trial court ruled that the finding of the investigator was the decision of the Board of Special Inquiry and decided that petitioner was entitled to be documented.

The Supreme Court reversed this decision on the ground that the law created a Board of Special Inquiry of three members and one man alone cannot take the place of the whole board.

The Court pointed out that the object of the law in providing for a board of three members is to minimize the danger of corruption to which cases of this kind frequently give rise. Moreover, a Board of Special Inquiry is created to inquire into cases for admission into the Philippines and not to pass upon the application for documentation as a Filipino Citizen.

7. OTHERS

Has the Secretary of Finance the power to revoke a previous ruling of his predecessor in office? The question was presented in *Hilado v. Collector of Internal Revenue*[24] where the Supreme Court upheld the power of the Secretary of Finance to revoke a general circular issued by his predecessor, thru the respondent Collector authorizing the deduction of certain items from the taxpayers' gross income. The reason is that the construction of a statute by those administering it does not bind their successors if thereafter the latter become satisfied that a different construction would be given.

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[22] §§26 and 27, Phil. Immigration Act (1940).
[23] G.R. No. L-8775, May 30, 1956.
[24] G.R. No. L-9408, Oct. 31, 1956.

II. PROCEDURE

1. COURT OF INDUSTRIAL RELATION

A party's right to a hearing, a cardinal primary right[25] the Court of Industrial Relations must observe, once again finds vindication in the case of *Sicat v. Reyes*.[26] Sicat was appointed by Lingson as his tenant replacing Lagman, whom Lingson discharged. Lagman applied to the CIR against this allegedly wrongful dispossession, but an amicable settlement was finally made and approved by the CIR reinstating Lagman and ordering Sicat to vacate the land. The order having become final, the court ordered its execution and the sheriff accordingly carried it out. The Court of Industrial Relations denied Sicat's motion for reconsideration.

He brought his appeal contending that he was not given his day in court.

The Supreme Court sustained this contention in the following language:

> "Said agreement, which served as a basis for the ejectment of Sicat, cannot be binding and conclusive upon the latter, who is not a party to the case. Indeed that order as well as the writ of execution, cannot legally be enforced against Sicat for the simple reason that he was not given his day in court. It is well-settled that 'no person shall be deprived of life, liberty, or property without due process of law...' and by 'due process of law' we mean 'a law which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial...' It is therefore, evident that the order of the lower court (ejectment) as well as the writ of execution are null and void."

Where, however, it appears that both parties were given opportunity to present their evidence before the hearing commissioner, aside from an ocular inspection conducted by the latter, the petitioner cannot complain of a denial of due process.[27]

Neither is there such a deprivation in a case [28] where the Court of Industrial Relations did not grant a further hearing but instead acted promptly upon the motion for reconsideration, an answer having been interposed, because under its rules a motion is deemed submitted for resolution once an answer has been filed and it is then discretionary upon the Court to hear the parties or not.

2. PUBLIC SERVICE COMMISSION

Proper notice and hearing is required by law in the issuance of certificates of public convenience and in the amendment or

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[25] Ang Tibay v. CIR, 69 Phil. 635, 643 (1940).
[26] G.R. No. L-11023, Dec. 14, 1956.
[27] Galvan v. Macaoay, G.R. No. L-9437, Sept. 27, 1956.
[28] Tolentino v. Alzate, G.R. No. L-9267, April 11, 1956.

modification of such certificate.[29] The lack of the requisite notice invalidates the proceedings taken. Notice must be served as prescribed by the controlling statute.[30]

However, an operator, whose interest would be but slightly affected by the granting of an additional service applied for by another, is not entitled to a personal notice of the hearing of the application, notice by publication in a newspaper of general circulation being sufficient.

This is the holding in *De Leon v. Goquinco*,[31] where the line applied for by respondent was different from that operated by the petitioner except for a small portion. Notice of hearing of the application was published in the newspaper. No opposition having been registered, the PSC granted the application.

Petitioner contended that he was not given personal notice of the hearing.

But the Supreme Court ruled that no such notice was necessary.

B. MODIFICATION BY THE CIR OF ITS ORDERS AND JUDGMENTS

In *Kaisahan ng mga Manggagawa v. De Chuan*,[32] the petitioning union contended that the order of the industrial court modifying its prior award granting petitioner wage increases with vacation and sick pay, which award has been affirmed by the Supreme Court, was error on the theory that the said award has long become final and executory. The CIR in this case ordered the examination of the books of the respondent to determine the money value of the award and on the basis of computation made, directed an order fixing the money liability of the respondent company.

The Tribunal admitted that the award had already become final and executory and it was beyond the province of the CIR to alter or modify it in a manner that would change its substance.

However, the Court said that the CIR did not alter the substance of the award. Precisely, it carried out its provision when it ordered its chief examiner to examine the books of respondent to determine the money value of the wage increases award.

In *Connell Bros. Co. v. National Labor Union*,[33] the Supreme Court approved the stand taken by the CIR in setting aside its

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[29] Sec. 16, Public Service Act.
[30] RIVERA, LAW OF PUBLIC ADMINISTRATION 821 (1956).
[31] G.R. No. L-4588, Sept. 14, 1956.
[32] G.R. No. L-8149, June 30, 1956.
[33] G.R. No. L-3631, June 30, 1956.

earlier order directing reinstatement of the discharged employees belonging to respondent union and substituting in its place an order authorizing the dismissal of the employees from the payroll of petitioner company:

> "We agree with the CIR that under Com. Act No. 103 particularly sec. 17 thereof, it has authority to alter, modify, reopen, and set aside even its final order or judgment; that consequently, it had the power to reopen the case despite its earlier order in order to receive evidence to show that the Company's business had considerably decreased justifying the dismissal of some laborers..."

C. FINDINGS OF FACTS

Courts are precluded from reviewing administrative findings of facts if supported by evidence.[34] Thus in *San Antonio v. Espinola*,[35] the Supreme Court refused to disturb the CIR's determination of respondents' ability to cultivate the land.

And in *15¢ and Up Employees Ass'n. v. Dept. Store*,[36] the CIR's findings of the ineligibility of an employee to vote in the certification election was upheld.

Likewise, the Director of Patents' findings in *Anchor Trading Co. v. Director of Patents* [37] that the respondent Lian Hun, and not the petitioner, was the first user of the trademark "Boston" was respected.

The Supreme Court considered this conclusion as a question of fact which "...unless a showing is made that in the evaluation of the evidence he (Director) has overlooked a matter of substance which, if considered, would have the effect of altering the nature of his decision... should be left undisturbed."

1. Sufficiency of Evidence

Under the well-known substantial evidence rule, substantially supported administrative findings preclude judicial substitution of judgment.[38] What evidence is sufficient to bar judicial interference is illustrated in the following cases:

Testimonial evidence showing the difficulty of transfers, loss of time and efforts of the passengers riding on applicant's buses

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[34] Manila Electric Co. v. National Labor Union, 70 Phil. 617 (1940); Halili v. Floro, G.R. No. L-3365, Oct. 25, 1951; Halili v. Balane, G.R. No. L-3365, April 11, 1951; Manila Yellow Taxicab v. Public Service Commission, G.R. No. L-2877, April 26, 1951.

[35] G.R. No. L-9414, Sept. 7, 1956.

[36] G.R. No. L-9168, Oct. 18, 1956.

[37] G.R. No. L-800, May 30, 1956.

[38] See note 34, *supra*.

and transferring to those of oppositors was held sufficient in *Medina v. Saulog Transit Co.*[39] to sustain the Public Service Commission's order granting respondent a certificate of public convenience to operate a direct service.

In *Estate of Buan v. Pampanga Bus Co.*,[40] an order of the Public Service Commission denying the application, based on an on-the-spot survey of passenger traffic conducted by the commission checkers, was upheld.

In *Laguna Tayabas Bus Co. v. Pabalan*,[41] the Commission's order granting the application sought for was supported by the following findings of fact: that the present lines were inadequate to accomodate all the passengers; that the number of passengers was increased by the cadre trainees and the families of the soldiers living along the line; and that the petitioner bus company picked no passengers in the barrios along the lines in question.

In *Raymundo Trans. Co. v. Cerda*,[42] the testimony of the residents living along the lines applied for was taken as sufficient to justify the authorization of additional trips.

2. Freedom from Technical Rules of Evidence.

It is now a established rule that administrative agencies should not be narrowly constrained by technical rules as to the admissibility of proof.[43] The reason for this principle, according to Frankfurter is that administrative agencies should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties.[44]

Hence, it is not necessary that the parties in an investigation conducted by the agents of the Court of Industrial Relations be given the opportunity to cross-examine witnesses, because such right is not expressly granted in administrative bodies like the CIR. The Supreme Court held so in *National City Bank of New York v. National City Bank Employees' Union*.[45] Evidence acquired through inquiries made by the agents of the Court was admissible.

And in *Marinduque Iron Mines v. Workmens Compensation Commissioner WCC*,[46] the petitioner contended that it was not given

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39 G.R. No. L-7244, June 28, 1956.
40 G.R. No. L-7996, May 31, 1956.
41 G.R. No. L-7059, April 28, 1956.
42 G.R. No. L-7880, May 18, 1956.
43 RIVERA, LAW OF PUBLIC ADMINISTRATION, *op. cit. supra* note 30.
44 Federal Communication Commission v. Pottsville Broadcasting Co., 309 U.S. 134 (1940).
45 G.R. No. L-6843, Jan. 31, 1956.
46 G.R. No. L-8110, June 30, 1956.

the chance to cross-examine the opposing witnesses during the investigation conducted by the referee because no notice was received by it. It appears, however, that notice of the investigation was actually sent twice to petitioner, who still failed to appear during the investigation.

Finding petitioner's grievance without basis because notice in fact was given, the High Court added that the statute even permits the Commission (or its referees) to take testimony without notice,[47] provided such ex-parte evidence is reduced to writing and the adverse party is afforded opportunity to rebut the same—which was done in this case.

D. FINALITY OF ADMINISTRATIVE DECISION

1. Wage Administrative Service.

In *Brillantes v. Castro*,[48] plaintiff and defendant agreed to submit their case involving unpaid salary and overtime pay to the Wage Admiministrative Service whose decision shall be binding and final between them. The WAS dismissed the suit. The plaintiff did not take steps to bring an appeal and the fifteen-day period within which appeal must be perfected to the Supreme Court was allowed to lapse. Instead the same case was brought before the Court of First Instance.

The court a quo dismissed the suit on the ground that the action is barred by prior judgment. Plaintiff then brought this appeal.

The Supreme Court sustained the dismissal on the same ground. It held that the WAS in entertaining the suit, hearing the parties, and deciding the case, acted as a quasi-judicial body and the proceedings before it were quasi-judicial proceedings. Consequently, plaintiff's failure to appeal from its decision served as a bar to another action between the same parties involving the same subject matter and cause of action and the same issue.

In the language of the Court: "The rule which forbids the reopening of a matter once judicially determined by competent authority applies as well to the judicial and quasi-judicial acts of public, executive, or administrative officers and boards acting within their jurisdiction as to the judgments of courts having general judicial powers."

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[47] §48, Act 3428 as amended.
[48] G.R. No. L-9223, June 30, 1956.

E. RIGHT TO BAIL IN DEPORTATION PROCEEDINGS

Is an alien under deportation proceeding entitled as a matter of right to provisional liberty or bail under the Constitution? This query was answered negatively in the case of *Tiu Chun Hai v. Deportation Board*[49] where the petitioners invoked the constitutional guarantee of bail to all persons before conviction except when charged with capital offense when the evidence of guilt is strong.

The constitutional right to bail, according to the Supreme Court, applies only to persons accused of offenses in criminal actions. Considering that deportation proceedings are not criminal in nature or are in no proper sense a trial and sentence for a crime or offense but merely a procedure devised by the Chief Executive to enable him to exercise properly the power of deportation vested in him by law, it follows that the right to bail in deportation proceedings is not a matter of right.

III. JUDICIAL REVIEW

EXHAUSTION OF ADMINISTRATIVE REMEDIES; RIPENESS FOR REVIEW

The doctrine of exhaustion of administrative remedies requires that the Courts stay their hand until the administrative processes have been completed. The administrative remedies afforded by law must first be exhausted before resort can be had to the Court, especially when the administrative remedies are by law exclusive and final.[50]

In *Dizon et al. v. Bayona, et al.*,[51] petitioners opposed an application for fish pond permit filed by Tolentino with the Bureau of Fisheries covering two parcels of land on the ground that said land allegedly belonged to them. A committee was formed for the purpose of ascertaining the ownership of the land. The committee found that said land was part of the public domain.

Apprehensive that the Bureau of Fisheries would issue the permit applied for, petitioners instituted a suit for a writ of prohibition. Upon due hearing, respondent CFI judge dismissed the petition on the ground that the petitioners have not exhausted all the administrative remedies provided for by law.

The Supreme Court affirmed the dismissal. Assuming that the fear of the petitioners that the Bureau of Fisheries was about to issue the fishpond permit was reasonable, they could still appeal

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[49] G.R. No. L-10109, May 18, 1956.
[50] Lamb v. Phipps, 22 Phil. 456, 492 (1912).
[51] G.R. No. L-8654, April 28, 1956.

to the Secretary of Agriculture and Natural Resources. The fact that the Committee found that the land was not within the tract of land claimed to be owned by petitioners did not mean that the Secretary of Agriculture and Natural Resources would confirm the action taken by the Director of the Bureau of Fisheries in issuing the permit.

The respondent court, the Supreme Court averred, could not interfere with the performance of the duties imposed and the powers conferred by law upon the Director of the Bureau and the Secretary of Agriculture. "Only after they had acted in the exercise and performance of such duties and powers vested in them by law and the petitioners still and really believe that the land... is not part of the public domain could they resort to the court of competent jurisdiction."

Petitioner in *De la Paz v. Alcaraz*[52] sought a review of the order of the Chief of Staff of the Armed Forces of the Philippines reverting his active service status in the Philippine Navy to inactive status. His reversion was recommended by Commander Alcaraz, his superior officer, on the ground of inefficiency.

Shortly after the reversion order was issued by the Chief of Staff, petitioner was summoned to an investigation regarding alleged misappropriation of government funds with a view of bringing him before a general court martial. Petitioner refused to submit to the investigation and thereupon he instituted suit in the CFI of Manila questioning the legality of his reversion. The trial court threw out the suit.

Denying relief to petitioner, the Supreme Court observed that if petitioner felt aggrieved by the recommendation made by his superior officer, he should have sought redress by appealing to the President of the Philippines who is the Commander-in-Chief of the Armed Forces through the proper military channels. Not having exhausted all administrative remedies, petitioner could not seek relief in courts of justice.

When the order or judgment does not dispose of the case completely but leaves something to be done upon the merits, it is merely interlocutory.[53] An interlocutory order may not be appealed.[54]

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[52] G.R. No. L-8551, May 18, 1956.
[53] 1 MORAN, COMMENTS ON THE RULES OF COURT 894-895 (1952).
[54] §2, Rule 41, Rules of Court.

Thus, in the case of the *Philippine Refining Co. v. Roldan, et. al.*,[55] the Supreme Court refused to give course to an appeal by certiorari of the order of the CIR denying petitioner's motion to dismiss because the said order did not dispose definitely and completely either the issues or the merits of the petition.

[55] G.R. No. L-7570, May 18, 1956.