LABOR LAW—1958

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The Supreme Court was not free from even the simplest labor case during the past year. But many of the 1958 decisions in labor relations law involved issues of first impression in our labor jurisprudence.

Except for the simple cases, all the decisions of the Supreme Court in labor relations law have been considered. The titles of the 1958 decisions are given in *italics* for convenient reference.

I. UNIONIZATION AND COLLECTIVE BARGAINING

The policy declaration on the right of labor to self-organization and collective bargaining is contained in Section 1 (a) and Section 3 of the Industrial Peace Act. To implement these propositions, the law has devised a scheme of remedial protection against acts and practices which interfere with such rights. To be sure, in outlawing unfair labor practices, Congress did not leave the matter at large for there is no doubt that management has the recognized right to maintain discipline in the plant and to control the production line.

A. PROTECTION AGAINST ACTS AND PRACTICES INTERFERING WITH UNIONIZATION AND COLLECTIVE BARGAINING

Section 4 (a) and (b) of the Industrial Peace Act has designated certain acts and practices as prejudicial to such rights. Section 4 (a), gives a catalogue of management unfair labor practices.

In 1958, the Supreme Court divided 8-to-3 on a question of first impression in our labor relations law with regards to the applicability of Section 4 (a) to non-industrial employment or non-industrial employer-employee relationship.

The vehicle was the case of *Boy Scouts of the Philippines v. Juliana V. Araos*, G. R. No. L-10091, promulgated on January 29, 1958. The Boy Scouts of the Philippines is admittedly a non-profit civic and benevolent institution, organized not for pecuniary gain or profit but for "more elevated purposes, the promotion and development of character, patriotism, courage, self-reliance, and kindred virtues in the boys of the country." In deciding the problem of the applicability of Section 4 (a) of the Industrial Peace Act to non-industrial employment, the Supreme Court, speaking through Mr. Justice Montemayor, laid down the doctrine of the non-applicability of labor legislation to institutions organized for charitable, educational, benevolent, medical and hospital purposes and not operated for profit or gain. Said the Supreme Court:

> "This high Tribunal has laid down the doctrine that labor legislation, like Commonwealth Act No. 103, as amended, creating the Court of Industrial Relations, the Eight-Hour Labor Law and the Workmen's Compensation Act, have no application to institutions organized and operated for charity, education, etc., and not for profit or gain, as far as the relationship between the management and its employees or laborers is concerned; that despite the solicitude shown by the Legislature for labor and its policy

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to promote the welfare of employees and laborers, nevertheless, it did not see fit or deem it necessary to extend to the workers in these charitable and educational organizations, the benefits of extra compensation for overtime work and work on Sundays and holidays, and for compensation for injuries suffered or illness contracted or aggravated, arising out of and in the course of employment; and that by analogy, the Industrial Peace Act, Republic Act No. 875, also a labor law, has no application to the Boy Scouts of the Philippines.

After considering the intention of Congress in enacting the Industrial Peace Act by means of intrinsic aids to interpretation of the Supreme Court continued;

"We are convinced that this Act refers only to organizations and entities created and operated for profit, engaged in a profitable trade, occupation, or *industry*. The law itself is called "An Act to Promote *Industrial* Peace and for Other Purposes", and Section 1, paragraph (a) declares the policy of the Act to eliminate the causes of *industrial* unrest, and paragraph (b), to promote sound stable *industrial* peace. Then Section 10 entitled "Labor Disputes in *Industries* Indispensable to the National Interests", provides that when the opinion of the President, there exists a labor dispute in an *industry* indispensable to the national interest, he may certify the case to the Court of Industrial Relations. From these, it is obvious that what the Legislature had in mind and what it intended the law to govern were industries, whose meaning is too obvious to need explanation. Surely, institutions like hospitals, the National Red Cross, Boy Scouts of the Philippines, Gota de Leche, Philippine Tuberculosis Society, and other organizations whose purpose is not to make profit or gain, but to aid in alleviating the sufferings of humanity and in developing character in the youth of the land, in furnishing milk to babies of the indigent, etc., can hardly be considered industries."

Realizing, however, that there are decisions by some stateside supreme courts, notably Wisconsin and Minnesota, which have held that charitable institutions are not exempted from the provisions of their state labor relations law, the Supreme Court took time to explain why the case of Wisconsin Employment Relations Board v. Evangelical Deaconess Society, 7 N.W. 2d. 590, and the case of Northwestern Hospital v. Pubilc Building Service Employees Union, 294 N.W. 215, are not authoritative in relation to Republic Act No. 875. The Supreme Court noted a very significant thing in the labor relations law of Wisconsin and Minnesota. According to the Supreme Court these stateside labor laws contain a list of exemptions in the definition of the terms "employer" and "employee". Since this is not the case in Republic Act No. 875, the Supreme Court ruled that those not exempted would naturally come under the operation of the industrial peace law. Furthermore, the Supreme Court noted that the title of the stateside labor laws is "Employment Peace Act." This can only mean, according to the Court, that the Wisconsin and Minnesota labor laws cover every kind of employment, be it industrial or otherwise. Continued the Supreme Court:

"On the other hand, our law on the subject is known as the Industrial Peace Act, and there is every reason to believe that it applies and was intended to apply only to intdustries, not to charitable institutions and others not organized or operated for profit.

". . . But even if we assume that the court decisions in these two States hold that charitable institutions and those organized not for profit or gain come under the provisions of labor relations laws, still we prefer to follow the rulings of the Supreme Courts of Pennsylvania and Massachusetts as more reasonable and more in keeping with the spirit that pervades our Industrial Peace Act."

Finally, the Supreme Court restated its position.

"On the basis of the foregoing considerations, there is every reason to believe that our labor legislation *from* Commonwealth Act No. 103, . . . *down through* the Eight-Hour Labor Law, *to the* Industrial Peace Act, was intended by the Legislature to apply only to *industrial employment* and to govern relations between employers engaged in industry and occupations for purposes of profit and gain, and their industrial employees,

> but not to organizations and entities which are organized, operated, and maintained not for profit or gain, but for elevated and lofty purposes, such as, charity, social service, education and instruction, hospital and medical service, the encouragement and promotion of character, patriotism and kindred virtues in the youth of the nation, etc." (Emphasis supplied).

Five months later, the Supreme Court was face to face with the same problem in the case of *University of San Agustin v. Court of Industrial Relations et al.*, G. R. No. L-12222, promulgated on May 28, 1958. This time the solution was no longer a problem. Indeed the Supreme Court, speaking through Mr. Justice Bautista Angelo, could say that "the issue is not new." By applying the doctrine of the non-applicability of labor legislation to non-profit, non-stock benevolent charitable, educational, medical and hospital institutions, first laid down in the Araos Case, *supra*, the Supreme Court concluded "that the Court of Industrial Relations has no jurisdiction to entertain the complaint for unfair labor practice lodged by respondent [Philippine Association of College and University Professors] against petitioners [University of San Agustin].

It is interesting to note that Mr. Justice Endencia, who dissented in the Araos Case together with Mr. Justice Concepcion, and Mr. Justice J. B. L. Reyes took no part in this case. At least the number of dissenters in the Araos Case was reduced from three to two in the University of San Agustin Case.

Comment

A problem comes up in this connection. If this be the case, then how can we explain the fact that labor organizations, which are admittedly non-profit, are still subject to cease-and-desist orders of the Court of Industrial Relations for having committed the acts prescribed in Section 4 (b) of the Industrial Peace Act. In other words, charitable, benevolent non-profit and non-stock institutions are not within the operation of the provisions of law on unfair labor practices then it should follow that labor organizations which are non-profit are also exempted from the operation of the provision on unfair labor practices under Section 4 (b).

I should like to hazard an answer.

In the first place, we must distinguish between management and labor union in their relationship with labor. Management or employer cannot act otherwise than as employer. Management takes care of its own bargaining as to terms and conditions of employment of its employees. On the other hand, a labor union may act as an employer, under Section 2 (c) of the Industrial Peace Act, or as an agent of the employees of an employer for purposes of collective bargaining, under Section 2 (f) of the law. Thus, when a labor union is established on a non-profit basis it does not mean that the union is no longer subject to a cease-and-desist order of the Court of Industrial Relations. The union is not immune when it is sued in its capacity as a "labor organization", that is to say, as an agent of the employees of an employer for purposes of collective bargaining. Thus, for example, when a labor union commits featherbedding there is no reason why the Court of Industrial Relations cannot prevent the labor union by means of a cease-and-desist order from said unfair labor practice, for it is not acting as an employer. But when a labor union is sued as an employer by its own office and clerical employees, as the term "employer" is interpreted by the Supreme Court to mean industrial employer, for having allegedly committed the acts prescribed in Section 4 (b) (1) of the law, then, clearly, the said labor union, not being an industrial em-

ployer, not having been established for profit or gain, is not subject to the jurisdiction of the Court of Industrial Relations. It, too, can file a motion to dismiss the unfair labor practice charged filed against it by its own employees.

B. DISCRIMINATION AS TO HIRE AND TENURE

Two cases decided by the Supreme Court have to do with 4-a-4 unfair labor practice. Section 4 (a) (4) provides as follows:

> "It shall be unfair labor practice for an employer:
> To discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization. . ."

In the case of *Compañia Maritima v. United Seamen's Union of the Philippines*, promulgated on June 20, 1958, it appears that the petitioners discharged twenty two messmen who happened to belong to the respondent union. On the pretext that there was a need to temporarily reduce the personnel because the vessel has to be placed in a drydock, the union men were laid off. But when the vessel resumed its run, other men were employed in disregard of the practice of recalling the laid-off personnel upon return of the vessel to service. This was aggravated by the fact that the practice of management was discontinued because the men declined to follow the hint that they join the General Maritime Services Union and quit the respondent union. The Supreme Court found a 4-a-4 unfair labor practice and ordered reinstatement with back pay according to Section 5 (c) of the Industrial Peace Act.

In the second case, *University of the Philippines et al v. Court of Industrial Relations et al.*, G. R. No. L-13054, December 26, 1958, the question was raised whether it was a 4-a-4 unfair labor practice for an employer to dismiss an active union member, whose job was temporary in nature together with three non-union members, after the funds set aside for this group of workers was reduced by the donor by an amount equal to the wages of four workers, and using as the criterion of separation the unsatisfactory service performed by the workers. The Supreme Court, speaking through Mr. Justice Bautista Angelo, ruled that under the foregoing facts the employer university was indeed justified in ordering the separation of the employee.

II. AUTONOMY IN LABOR-MANAGEMENT RELATIONSHIP

With the enactment of Republic Act No. 875 labor relations in our country moved into a period of autonomy. Thus, Section 7 of the act provides that "in order to prevent undue restriction of free enterprise for capital and labor and to encourage the truly democratic method or regulation the relations between the employer and the employee by means of an agreement freely entered into in collective bargaining, no court of the Philippines shall have the power to set wages, rates of pay, hours of employment or conditions of employment except as in the Industrial Peace Act is otherwise provided and except as is provided in Republic Act No. 602 and Commonwealth Act No. 444 as to hours of work.

A. BAN ON GOVERNMENTAL INTERVENTION THROUGH USE OF THE INJUNCTIVE RELIEF

Section 9 (d) of the Industrial Peace Act enumerates the conditions necessary for the grant of injunctive relief. Without these conditions no court of

the Philippines shall acquire jurisdiction to issue a temporary or permanent injunction in any case even if it involves or grows out of a labor dispute as this concept is defined in Section 2 (j) and Section 9 (f) (1).

The requirements of these provisions are mandatory. Thus in *Lakas ng Pagkakaisa sa Peter Paul v. Hon. Gustave Victoriano*, G. R. No. L-9290, promulgated January 14, 1958, the Supreme Court vacated the writ issued by the respondent judge on the basis of the procedure laid down in Rule 60 of the Rules of Court, in disregard of the process prescribed in Section 9(d) of the Industrial Peace Act.

In the case of *United Pepsi-Cola Sales Organization v. Hon. Antonio Cañizares et al.*, G. R. No. L-12294, promulgated on January 23, 1958, the question as to the validity of a writ of injunction issued *ex parte* was raised. Petitioner union contended that the writ of injunction was not issued in accordance with Section 9 (d). The Supreme Court, speaking through Mr. Justice J. B. L. Reyes, in effect chided the union on its failure to see that the method of granting an *ex parte* injunction is allowed by law and was the one followed by the respondent judge.

III. Problems Involved in Collective Bargaining

In 1957 the Supreme Court decided some of the many problems that come up in process of collective bargaining. In 1958 the Supreme Court faced different ones, some of first impression in our jurisdiction.

A. Determination of Appropriate Collective Bargaining Unit

The decision of the Supreme Court in so far as this problem is concerned is a first in our labor jurisprudence.

When a labor union seeks to represent a group of employees for purposes of collective bargaining it is necessary to determine if that employee-group constitutes a unit appropriate for such purpose. A clear case of inappropriate grouping would be that of a union of production and maintenance workers and supervisory employees.

Such a determination is important in two types of cases: (1) those involving petitions for certification of bargaining representatives, pursuant to Section 12 (b) of the Industrial Peace Act, and 2) cases involving charges that an employer has refused to bargain collectively with the agent of his employees, in violation of Section 4(a) (6) of the Industrial Peace Act. In such instances a finding as to appropriateness of employee unit is indispensable to the decision of the industrial court. A certification of representative would be useless in the absence of a prior finding of the appropriateness of the collective bargaining unit.

Just what an appropriate unit for purposes of collective bargaining in respect of rates of pay, wages, tenure of employment, hours of work, and other terms and conditions of employment was considered by the Supreme Court in the case of *Democratic Labor Association v. Cebu Stevedoring Company, Inc. et al.*, G. R. No. L-10321, promulgated February 28, 1958.

In the Cebu Stevedoring case, there are two sets of employees or laborers. One group is regular and permanent, engaged in stevedoring work on ocean going vessels regularly calling at the port of Cebu. The other group is com-

posed of casual or temporary laborers engaged in the lighterage business of the respondent company, which consists of hauling and storing merchandise and other product to and from the port of Cebu and the neighboring islands and provinces. These groups have different agreements with the respondent company with regards to tenure of work, wages, rates of pay, and other terms and conditions of employment.

In determining the appropriate collective bargaining unit, the trial judge deemed it proper that two separate bargaining units be certified to the workers, one for the regular and permanent workers and the other for the casual or temporary laborers. On a motion for reconsideration filed by the petitioner Democratic Labor Association, the Court of Industrial Relations, sitting *en banc*, overruled the trial judge and ordered that the appropriate collective bargaining unit is the employer-wide operation, embracing all the workers and laborers of the respondent company. The Court of Industrial Relations based its ruling on the collective bargaining history that dated as far back as 1947, or about seven years before the filing of the petition for certification with the Court of Industrial Relations. Under this collective bargaining history there was an agreement enforced between the petitioner Democratic Labor Association and the respondent company, which covered all the working force under the latter's employ. This was renewed on November 1, 1950, and upon its expiration was extended for another two years ending on November 1, 1952, and continued up until the time another union, Cebu Stevedoring Association filed with the Court of Industrial Relations a petition that it be certified as the exclusive collective bargaining agent of the workers and laborers of the respondent company.

The Supreme Court, in laying down the rule on the problem of determination and redetermination of an appropriate collective bargaining unit, reversed the Court of Industrial Relations and affirmed the decision of the trial judge. In discarding the historical precedent as the controlling factor in the determination or redetermination of the appropriateness of the grouping of employees or laborers for purposes of collective bargaining, the Supreme Court, speaking through Mr. Justice Bautista Angelo, ruled:

> "While it is true that a collective bargaining agreement has for sometime existed between the petitioning union and respondent company and the same has served the purpose for which it has been concluded, it does not follow that the same situation should continue even if there are supervening factors that press for a different treatment or other cogent reasons that would justify a different course in the determination of the appropriate collective bargaining agency. . . .
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> ". . . Inasmuch as the basic test of a bargaining unit's acceptability is whether it will best assure to all employees the exercise of their collective bargaining rights, industrial experience indicates that the most efficacious bargaining unit is one which is comprised of constituents enjoying a *community of interest and economic or occupational unity*. This community of interest is reflected in groups having substantial similarity of work and duties or similarity of compensation and working conditions . . . (Emphasis by the Court).
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> "An enlightening appraisal of the problem of defining an appropriate bargaining unit is given in the 10th Annual Report of the National Labor Relations Board wherein it emphasized that . . . the basic test in determining the appropriate bargaining unit it that a unit, to be appropriate, must effect a grouping of employees who have substantial, mutual interests in wages, hours, working conditions and other subjects of collective bargaining. . . ."

Thus the Supreme Court went on record that "when the circumstances have been so altered or where the reciprocal relationship of the employer and the bargaining unit has been so changed that the past mutual experience in collective bargaining cannot be reasonably said to establish a reliable guide to the present constituency of the bargaining unit, *then prior collective bargaining history cannot be considered a factor in the determination.*" (Emphasis by the Court).

Three months later the Supreme Court applied this basic test in the case of *Benguet Consolidated, Inc. et al. v. Babok Lumberjack Association et al.*, G. R. No. L-11029, promulgated May 23, 1958, and in the case of *Benguet Balatok Workers Union v. Babok Lumberjack Association et als.*, G. R. No. L-11065, promulgated May 23, 1958. Speaking through Mr. Justice J. B. L. Reyes, the Supreme Court, in affirming the decision of the Court of Industrial Relations, stated:

> "According to the court, while 'the history of collective bargaining by the different unions with management and the functional interdependence of the different departments of work to each other would indicate that the employer unit is the appropriate unit', there are other factors favoring the maintenance of the five camps as separate bargaining units. These factors, the court held, are the distribution of the workers in the five different camps, which are separated from each other by some other by some distance, the presence of a superintendent, and the difference in the nature of the work in each camp.
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> "In concluding that the system of having one collective bargaining unit for each camp should be maintained and continued the industrial court found as follows: that such system had operated satisfactorily; that the prime and decisive element in determining whether a given group of employees constitute a proper bargaining unit is whether it will, without inequity to the employer, best serve all employees in the exercise of their bargaining rights; that in the present case, the separation between the camps (which extends to 60 kms. between the Antamok and Aupan camps) and the different kind of work in each . . . all militate in favor of the present system of separate bargaining units, since the problems and interest of the workers are peculiar in each camp or department. . . ."

B. THE PROBLEM OF ELIGIBLE EMPLOYEES

Who are the employees eligible to vote in a certification election? In general the payroll period immediately preceding the issuance of the order of the Court of Industrial Relations directing the certification election is taken into account.

In the case of *United States Lines et al. v. Associated Watchman and Security Union*, G. R. No. L-12208 and G. R. No. L-12211, promulgated on May 21, 1958, the Supreme Court had occasion to rule on this question. Speaking through Mr. Justice Bautista Angelo, the Court ruled:

> "The Court of Industrial Relations did not also err in ordering that in conducting the election the payrolls of the several ships showing the watchmen who rendered services from January 18, 1956 to February 18, 1956 be observed for such is the rule that is followed in certification proceedings. The payroll of the month preceding the labor dispute is the payroll to be used as voting list. But the court did not only order the use of these payrolls but also allowed to take part in the election those watchmen who are sick, on vacation, or on rotation, and even those dismissed for unfair labor practice whose status are still undefined. We see nothing improper in the rules laid down by the trial court to be followed by the Department of Labor in the conduct of the certification election. They have been adopted having in view only the law and the interest of the watchmen."

C. PARTIES TO COLLECTIVE BARGAINING

1. Employer.

Section 2 (c) of the Industrial Peace Act provides:

> "The term 'employer' includes any person acting in the interest of an employer, directly or indirectly but shall not include any labor organization (otherwise than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization."

To this, of course, are excluded agencies and instrumentalities of the State performing governmental functions. (Section 11, Industrial Peace Act; Angat River Irrigation System v. Angat River Worker's Union, G. R. No. L-10944, December 28, 1957).

In the case of *Boy Scouts of the Philippines v. Juliana V. Araos*, G. R. No. L-10091, promulgated on January 29, 1958, the main issue involved was whether or not charitable institutions organized not for profit or gain but for humanitarian purposes are included in the definition of the term "employer" contained in Section 2 (c) of the Industrial Peace Act. The significance of this issue on labor relations law is that if they are included, then any act which may be considered unfair labor practice under the Industrial Peace Act would come under the jurisdiction of the Court of Industrial Relations. In deciding the issue, the Supreme Court, speaking through Mr. Justice Montemayor, ruled that the term "employer" should be interpreted "in accordance with the ruling spirit that pervades the whole Industrial Peace Act [which is] concerned only with regulating relations between management and labor, not commerce or the flow of commerce." After reminding the parties and the dissenters that our labor relations law is patterned after the United States labor relations acts, the Supreme Court considered American authorities, *viz.*, Petition of the Salvation Army, 36 A. 2d 479; St. Luke's Hospital v. Labor Relations Commission et al., 70 N.E. 2d 10; and Office Employees International Union v. National Labor Relations Board, 235 F. 2d 832. And for the benefit of the dissenters, the majority explained why the decisions in Wisconsin Employment Relations Board v. Evangelical Deaconess Society, 7 N.W. 2d 590 and Northwestern Minnesota Hospital v. Public Building Service Employees Union, 294 N.W. 205, are not applicable in Philippine labor relations law. Said the Supreme Court:

> "But even if we assume that the court decisions in these two States hold that charitable institutions and those organized not for profit or gain come under the provisions of labor relations laws, still we prefer to follow the rulings of the Supreme Court of Pennsylvania and Massachusetts as more reasonable and more in keeping with the spirit that pervades our Industrial Peace Act."

Thus on the basis of the considerations made by the Supreme Court, it came to the conclusion that:

> "There is every reason to believe that our labor legislation from Commonwealth Act No. 103, creating the Court of Industrial Relations, down through the Eight Hour Labor Law, to the Industrial Peace Act, was intended by the Legislature to apply only to industrial employment and to govern the relations between employers engaged in industry and occupations for purposes of profit and gain, and their industrial employees, but not to organizations and entities which are organized, operated, and maintained not for profit or gain, but for elevated and lofty purposes, such as, charity, social service, education and instruction, hospital and medical service, the encouragement and promotion of character, patriotism and kindred virtues in the youth of the nation, etc."

2. Employees.

Under Section 2 (d) of the Industrial Peace Act the term "employee" is defined to include any employee and shall not be limited to the employees of a particular employer. Does it mean then that all kinds of employees are within the meaning of the term "employee"? In 1958 the Supreme Court came up with one exception. In the case of *Boy Scouts of the Philippines v. Juliana V. Araos, supra*, the Supreme Court ruled that the term "employee" in the Industrial Peace Act is to be understood to refer to industrial employees only, and not to employees of non-profit, non-stock institutions engaged in charitable, benevolent, hospital and medical work.

Note

May an employee whose appointment is temporary in nature be separated from his work without risking the charge of unfair labor practice?

In the case of *University of the Philippines et al. v. Court of Industrial Relations et al.*, G.R. No. L-13054, promulgated on December 26, 1958, the Supreme Court, speaking through Mr. Justice Bautista Angelo, cited the cases of *Cuadra v. Cordova*, G.R. No. L-11602, promulgated on April 21, 1958 and *Reyes et al. v. Dones et al.*, G.R. No. L-11427, promulgated on May 28, 1958, and ruled that he may.

D. CERTIFICATION ELECTIONS

1. *Bar to Certification Elections.*

There are four ways under which a collective bargaining agreement may be entered as provided in Section 12 of the Industrial Peace Act. The third, *i.e.*, at the employees' petition in accordance with Section 12(c), figured in the case of *Acoje Mines Employees et al. v. Acoje Labor Union et al.*, G.R. No. L-11273, promulgated on November 21, 1958. Section 12(c) provides:

> "In an instance where a petition is filed by at least ten per cent of the employees in the appropriate unit requesting an election, it shall be mandatory on the Court to order an election for the purpose of determining the representative of the employees for the appropriate bargaining unit."

The issue in the Acoje case was whether the certification election called for in the situation contained in the foregoing provision is absolute or not. The Supreme Court ruled that it is not for there are certain well-recognized exceptions: (1) under Section 12(b), when a certification election has occurred within a period of twelve months of the last one, (2) where there is an unexpired bargaining agreement not exceeding two years, as held in the case of *Philippine Long Distance Telephone Employees' Union v. Philippines Long Distance Telephone Co. et al.*, G.R. No. L-8138, promulgated August 20, 1955, and (3) when there is a formal charge of company unionism of one of the contending labor unions in the certification election, as held in the case of *Manila Paper Mills Employees v. Court of Industrial Relations et al.*, G.R. No. L-11963, promulgated June 20, 1958.

IV. THE COURT OF INDUSTRIAL RELATIONS

The existence of the Court of Industrial Relations is continued under Section 2 of the Industrial Peace Act.

A. JURISDICTION OF THE INDUSTRIAL COURT

1. *Jurisdiction Under the Industrial Peace Act.*

(a) Over Cases Involving Unfair Labor Practice Cases.

The statutory reference is found in Section 5(a) and (c) of the Industrial Peace Act.

The problem involved in the concept of backpay as an affirmative remedy in order to effectuate the policies of the Industrial Peace Act are many and varied, among which are: (1) Is the remedy mandatory? (2) Is the affirmative action limited only to the enumeration contained in Section 5(c)? (3) May backpay be waived? (4) May backpay be mitigated?

The issue in the case of *United Employees Welfare Association v. Isaac Peral Bowling Alleys*, G.R. No. L-10327, promulgated on September 30, 1958, was whether Section 5(c) grants the Court of Industrial Relations the power to mitigate the amount of backpay. The Supreme Court, speaking through Mr. Justice A. Reyes, ruled that the Court of Industrial Relations may reduce the amount, provided the circumstances so warrant. Said the Court:

> "Being empowered—by Section 5(c) of Republic Act 875—to order the reinstatement of an employee 'with or without backpay,' that court must be deemed to have also the lesser power of mitigating the backpay where backpay is allowed. And we note that in the present case there are circumstances calling for mitigation. For it appears that there was a long delay in the disposal of the case—decision did not come down until one year after the case was submitted—and as we had occasion to note in our decision in the main case (G.R. No. L-9831, October 30, 1957) the Industrial Court was aware that the financial condition of the bowling alleys was 'not very sound due to losses reported during the years 1952-1953.'"

Comment

This ruling provokes several questions:

Question No. 1. May the Court of Industrial Relations take as a valid circumstance in mitigating the backpay award the fact that the laborer did not make any real effort to minimize his loss? The suggested answer may be found in Article 2203 of the Civil Code of the Philippines which provides that the party suffering loss or injury must exercise the diligence of a good father of a family to minimize the damages resulting from the act or omission in question.

The decision in the case of In Re Harvest Queen, 90 N.L.R.B. 320 (1950), is helpful. There it was held that a discriminatorily discharged employee, to be eligible for pay, must make a reasonable effort to obtain new employment during the period of discrimination.

Question No. 2. May the Court of Industrial Relations mitigate the backpay award by the amount earned by the dismissed employee during his lay-off?

The case of F. W. Woolworth, 90 N.L.R.B. 289 (1950), is significant in the matter. There it was held that in the computation of awards the courts must "take account of interim earnings of the discharged employees." The Supreme Court had occasion to pass on this question already. In *Western Mindanao Lumber Co. v. Mindanao Federation of Labor*, G.R. No. L-10170, promulgated April 25, 1957, it ruled that the Court of Industrial Relations was correct in ordering that "the amounts earned by workers during the lay-off should be deducted from the salaries due them from the appellant."

i. *Appeals in ULP Cases.*

Section 6 of the Industrial Peace Act provides in part that the findings of the industrial court with respect to questions of fact shall be conclusive if supported by substantial evidence in the record.

What is meant by "substantial evidence" in labor relations law? In the case of *United States Lines et al. v. Associated Workmen and Security Union*, G.R. Nos. L-12208-11, promulgated on May 21, 1958, the Supreme Court, speaking through Mr. Justice Bautista Angelo, laid down the test:

> "The law does not contain any definition of the term "substantial evidence." Neither is there a precedent in this jurisdiction which may serve as guide in the determination of the existence of "substantial evidence." . . . Of course, in reaching a conclusion of fact, the court should weigh all the evidence on hand and cannot just consider the evidence of one side and disregard the evidence of the other. Much depends upon the wisdom and discretion of the court.
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> "Precedents, however, are not wanting. . . . Thus, in one case, when a similar issue was raised, the Supreme Court of the United States held that 'substantial evidence is more than a scintilla, and must do more than create a suspicion of the existence of the fact to be established. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.' In the same case it was pointed out that substantial evidence means 'evidence which is substantial, that is, affording a substantial basis of fact from which the fact in issue can be reasonably inferred' (National Labor Relations Board v. Columbian Enameling and Stamping Co., Inc., 306 U.S. 292-306)."

ii. *The Non-Stay Doctrine.*

The issue presented in *Kapisanan ng mga Manggagawa sa Manila Railroad Company et al. v. Paulino Bugay et al.*, G.R. No. L-10265, promulgated July 31, 1958, was whether the Court of Industrial Relations acted in accordance with law when it granted the motion to execute the decision of the industrial court which was pending review in the Supreme Court in the case docketed as G.R. No. L-9327.

In solving this problem the Supreme Court, speaking through Mr. Chief Justice Paras, laid down the rule that if an unfair labor practice case is found by the Court of Industrial Relations the latter can order its execution even if on appeal it be found that no unfair labor practice was committed. The Supreme Court tried to rationalize this approach by stating that if it were otherwise then Section 6 of the Industrial Peace Act "could be rendered nugatory by the simple expedient of alleging in the Supreme Court the non-existence of an unfair labor practice." And "to wait till said point is adjudicated would to all intents and purposes clearly frustrate the mandatory "non-stay" enunciated by said Act."

Note

In the case of *University of the Philippines et al. v. Court of Industrial Relations et al.*, G.R. No. L-13054, promulgated on December 28, 1958, the Supreme Court entered a resolution on November 13, 1958, granting the petition for the issuance of a writ of injunction to enjoin the Court of Industrial Relations and all its agents from enforcing the writ of execution issued by the Court of Industrial Relations pending the decision of the petition for certiorari to review the order of the industrial court, dated July 8, 1957, ordering the reinstatement of the dismissed employee with backpay.

Petitioners interposed certain legal and financial impediments to the immediate execution of the order of the industrial court. It was contended that the provisions of Section 6 of the Industrial Peace Act should be interpreted in their relation with laws prohibiting the use of public funds for purposes other than those for which they were appropriated. In this case the appointment of the laborer was temporary in character, in the sense that it expired yearly. His salary was paid out of a particular foreign aid to the University of the Philippines, which was reduced considerably in the year 1956-1957, which re-

sulted in the laborer's dismissal, together with other laborers in his division, all of whom were non-union members. This foreign aid was totally withdrawn in 1957. In other words there was no fund available from which the salary of this laborer could be taken.

It would seem then that depending on the circumstances of the case the non-stay rule is not absolute.

(b) *Over Cases Involving Violation of Labor Internal Procedures.*

The statutory reference is found in Section 17 of the Industrial Peace Act.

In 1957 the Supreme Court, speaking through Mr. Justice Montemayor, following the mandate of the foregoing provision, ruled in the case of *Kapisanan ng mga Manggagawa sa Manila Railroad Company et al. v. Paulino Buygay et al.*, G.R. No. L-9327, that questions involving rights and conditions of membership in a labor organization fall within the jurisdiction of the Court of Industrial Relations.

This was applied in 1958 in the case of *Plaslu v. Hon. Montano Ortiz et al.*, G.R. No. L-11185, promulgated on April 23. Speaking again for the Supreme Court, Mr. Justice Montemayor ruled that questions involving labor internal procedures, provided in Section 17 of the Industrial Peace Act, fall within the jurisdiction of the Court of Industrial Relations. This time the Supreme Court categorized this particular jurisdiction as exclusive in nature. Questions of this nature are not within the jurisdiction of the courts of first instance. Supplying the reason for this rule, the Court continued:

> "One reason, in our opinion, why cases involving the rights and conditions of membership in a labor union or organization are placed within the exclusive jurisdiction of the Court of Industrial Relations is that said court is in a better position and is relatively more qualified than ordinary courts to determine said cases, dealing as it does with problems of management and labor. . . ."

i. *Who may file the complaint.*

Last year, in the Manila Railroad Company case, *supra*, the Supreme Court ruled that while it is true that Section 17 of the Industrial Peace Act requires a minimum of ten per cent of the members to make a report or complaint with the Court of Industrial Relations of any alleged violation of labor internal procedures, the Supreme Court stated that the requirement of ten per cent refers only to violations which involve a group or a sizeable number of the members of a labor union in which the latter are interested or which necessarily affect them. But when a violation affects only a member of the union then it is not necessary that ten per cent of the membership of the labor union file the complaint in the industrial court.

In the case of *Plaslu v. Hon. Montano Ortiz et al.*, G.R. No. L-11185, promulgated on April 23, 1958, the Supreme Court encountered the same problem. It appears that a member of the labor union filed a complaint alleging that the union failed to issue receipts for payments and contribution to the union that he had made, that he was not allowed to participate in the election of the officers of the union, and that he was not permitted to inspect the books of account of the union. The Supreme Court, in applying the rule enunciated in the Manila Railroad Company case, *supra*, held that these acts come within the exception to the requirement of a minimum of ten per cent of the members of a union to file a report or complaint with the industrial court for any violation of the labor internal procedures provided in Section 17 of the Industrial Peace Act.

(c) *Jurisdiction to Grant Injunctive Relief.*

The statutory reference is found in Section 9(d) of the Industrial Peace Act.

This particular jurisdiction of the Court of Industrial Relations has to be delineated. Under the Industrial Peace Act, the industrial court is granted inter alia exclusive jurisdiction over certain matters, *e.g.*, the prevention of unfair labor practices, questions pertaining to the minimum wage law, etc. The jurisdiction of the Court of Industrial Relations to grant injunctive relief, present all statutory requirements, is exclusive when it pertains to cases or controversies exclusively cognizable by the Court of Industrial Relations. Thus, the Supreme Court even declared in *Reyes et al. v. Tan*, G.R. No. L-9137, promulgated on August 31, 1956, that when the acts against which the injunction in question was obtained constitute unfair labor practices the application for injunction would be exclusively cognizable by the Court of Industrial Relations and beyond the jurisdiction of the Court of First Instance even if no complaint for unfair labor practice has been filed, as yet, with the Court of Industrial Relations.

This rule was reiterated in four cases decided by the Supreme Court in 1958, namely, *Lakas ng Pagkakaisa sa Peter Paul et al. v. Hon. Gustavo Victoriano et al.*, G.R. No. L-9290, promulgated on January 14, 1958, *Consolidated Labor Association of the Philippines et als. v. Hon. Hermogenes Caluag et als.*, G.R. No. L-12530, promulgated on May 30, 1958, *Erlanger & Galinger, Inc. v. Erlanger & Galinger Employees Association*, G.R. No. L-11907, promulgated on June 24, 1958, and *Benguet Consolidated Mining Company v. Coto Labor Union et al.*, G.R. No. L-12000, promulgated on August 30, 1958.

2. *Jurisdiction Under Commonwealth Act No. 103.*

(a) Cases Involving Money Claims or Unpaid Wages.

Section 4 of Commonwealth Act No. 103, as amended, provides:

> "The Court shall take cognizance for purposes of prevention, arbitration, decision, and settlement, of any industrial dispute causing or like to cause a strike or lockout, arising from differences as regards wages, shares or compensation, dismissals, lay-offs, or suspensions of employees or laborers, hours of labor, or conditions employment, between employers and employees or laborers, provided that the number of employees, laborers involved exceeds thirty, and such industrial dispute is submitted to the Court by the Secretary of Labor, or by any or both of the parties to the controversy. . . ."

In *H. E. Heacock Co. v. National Labor Union*, G.R. No. L-11135, April 30, 1958, the issue presented was whether the Court of Industrial Relations acquired jurisdiction over a petition for money claim based on an alleged promise made by management, when there is no allegation that a labor dispute causing or likely to cause a strike or a possibility thereof is imminent or expected from the violation or failure of management to comply with its promise. The Supreme Court, speaking through Mr. Justice Labrador, ruled:

> "There is no allegation . . . that a labor dispute causing or likely to cause a strike, or a possibility thereof is imminent or expected from the violation or failure of the petitioner to comply with its promise. The respondent, therefore, only seeks . . . to assert money claims, based on an alleged promise made previously. This may have occasioned a labor dispute and a previous strike; but nowhere does it now appear that it has again produced a labor dispute, causing or likely to cause a strike or lockout. Under the circumstances, therefore, the motion does not fall within the jurisdiction of the Court of Industrial Relations. The law on the point is clear that the dispute must give rise to or probably cause a strike or lockout, in order that the Court of Industrial Relations may have jurisdiction to try the claims."

This rule was reiterated by the Supreme Court in the cases of *Roman Catholic Archbishop of Manila v. Hon. Jimenez Yanzon et als.*, G.R. No. L-12341, promulgated on April 30, 1958, and *Elizalde & Co., Inc. v. Hon. Jimenez Yanson et als.*, G.R. No. L-12345, promulgated on April 30, 1958.

3. *Jurisdiction Under Commonwealth Act No. 444.*

Section 7 of the Industrial Peace Act grants jurisdiction to the Court of Industrial Relations over cases involving the Eight-Hour Labor Law.

In *National Shipyards and Steel Corporation v. Deogracias Almin et al.*, G.R. No. L-9055, promulgated on November 28, 1958, the Supreme Court applied the foregoing provision, citing *Cebu Port Labor Union v. State Marine Corporation*, G.R. No. L-9350, promulgated on May 20, 1957, and *Reynaldo Gomez v. North Camarines Lumber Company, Inc.*, G.R. No. L-11945, promulgated on August 18, 1958.