ADMINISTRATIVE LAW

EMERITO O. TOLENTINO*
DANILA S. MENDOZA**
JAIME C. OPINION***

The necessity of administrative agencies is frankly admitted, even by those opposed to the further extension of the powers granted to such agencies. Their rationale has been stated by Elihu Root: "As any community passes from simple to complex conditions, the only way in which government can deal with the increased burdens thrown upon it is by the delegation of powers to be exercised in detail by subordinate agents, subject to the control of general directions prescribed by superior authority. The necessities of our situation have already led to an extended employment of that method."[1] And courts, though conservatively tuned to the beat of the march of civilization, have recognized the situation and, under one pretext or another, have upheld laws in derogation of the moss-covered doctrine prohibiting the delegation of powers.

The considerable number of administrative law cases decided by the Supreme Court for 1959, show, quite evidently, that administrative law is still "in its infancy, crude and imperfect."

Because of its infancy and asymmetrical development due to the fact that administrative law had no place in constitutional theory,[2] and because of the ever present peril that the enforcement of administrative law is occasionally in the "hands of zealous and immature persons whose understanding of human relations and economic difficulties is colored by an eager desire to make a showing for his agency", the Supreme Court, for the time to come, will still have to exercise its power of review on administrative decisions. A learned author, however, envisions the time, perhaps not too far off, when "administrative tribunals will become quite unmistakable courts and will acquire the authority and the responsibility of courts."[3] The inevitable consequence of this transformation will be the coming into existence of a professional group of administrators.

RULE MAKING POWER

Central Bank of the Philippines

A case which quite exhaustively discusses the power of rule making by administrative agencies is *People v. Jollife*.[4] Prosecuted for violation of R.A. No. 265 for having in his possession four pieces of gold bullion when he was about to board an out-going PAA plane, Jollife assailed the validity of Cir-

* Vice-Chairman, Student Editorial Board, Philippine Law Journal, 1959-1960
** Recent Documents Editor, Student Editorial Board, Philippine Law Journal, 1950-1960
*** B. S. Jur. (U.P.) (1959); Recent Legislation Editor, Student Editorial Board, Philippine, 1959-1960.

1 State v. Whitman, 220 N.W. 929, 938 (1928). The late Justice Laurel has equated it to "the growing complexity of modern life, the multiplication of subjects of governmental regulations, and the increased difficulty of administetring the laws." Pangasinan Transportation Co. v. PSC, 70 Phil. 221 (1940)

2 Ibid. p. 939.

3 RADIN, M., The Law and You (1948)

cular No. 21 of the Central Bank for non-compliance with R.A. No. 265 on the following grounds:

(1) Circular No. 21 has not merited the approval of the President of the Philippines. *Held*: The practice of the Monetary Board was to obtain said approval before the formal enactment of circulars necessitating presidential sanction, and it must presumed, in the absence of proof to the contrary, that such duty has been fulfilled.

(2) The authority of the Monetary Board to suspend and restrict the sales of exchange of the CB and to subject all transactions involving foreign exchange to license is temporary in nature and may be exercised only during an exchange crisis as an emergency measure to combat such crisis, and that Circular 21 does not indicate that it was a temporary emergency nature. *Held*: It is not necessary for the legality of said Circular that its temporary character be stated on its face so long as the Circular has been issued during an exchange crisis for the purpose of combating the same.

(3) Circular 21, as published in the Official Gazette in its original and amended form, did not bear the approval of the President of the Philippines, and that accordingly said publication was not sufficient to give the effect contemplated by law therefor. *Held*: The original Circular subjecting to licensing "all transactions in gold and foreign exchange" is Circular 20 which, as approved and published, stated that "pursuant to R.A. No. 265 it had been adopted by the Monetary Board by unanimous approval of the President." The last paragraph of Circular 20 also provides that "further regulations in respect to transactions covered by this Circular will be issued separately." Thus, the President had not only approved the licensing by the CB of "all transactions in gold and foreign exchange" but also the issuance subsequently to the promulgation of Circular 20 of "further regulations in respect of" such transactions. Said further regulations were incorporated into Circular 21 which thus bears the stamp of presidential sanction although this is not officially required by law.

The validity of administrative regulations depends upon the existence in the statute of definite standards upon which they are to be based. This legal principle was also invoked in *People v. Jollife*[5], with Jollife contending that the grant of authority to issue Circular 21 constituted an undue delegation of legislative power. The high court said that it is one thing to delegate the power to determine what the law shall be, and another thing to delegate the authority to fix the details in the execution or enforcement of a policy set out in the law itself, and that Secs. 70 and 74, R.A. No. 265, are standards sufficiently concrete and definite to vest in the delegated authority the character of administrative details in the enforcement of the law and to place the grant of said authority beyond the category of a delegation of legislative powers.

The decision in *People v. Jollife* was applied in *People v. Henderson et al*[5a] where Circular 31 in connection with Sec. 34, R.A. No. 265, was assailed for lack of presidential approval.

Commissioner of Customs

The cases of *Commissioner of Customs v. Pascual*[6] and *Commissioner of Customs v. Leuterio*[7] where decided on the ruling of *People v. Jollife*.

5 Supra
5a G. R. No. L-10829-30, May 29, 1959
6 G. R. No. L-9836, November 18, 1959
7 G. R. No. L-9142, October 17, 1959

Department of Education

In *People v. Foster*[8], defendant Foster, who was convicted for operating a fashion and beauty school without a permit from the Department of Education, contended that the Secretary of Education has not prescribed any standard of instruction for fashion and beauty schools to indicate that they come under the jurisdiction of his Department. It was ruled that the Department has prescribed minimum requirements concerning supplies, first aid facilities, library, cutting and sewing tools, etc., aside from the general and specal requirements prescribed in the manual of information issued by said Department concerning minimum qualifications for faculty members, methods of teaching, limitations of enrollment, and financial requirements.

Philippines Patent Office

When the Legislature has enacted a statute and therein determined the general purpose or policy to be achieved, and fixed limits within which the law shall operate, it may delegate to administrative agencies the authority to exercise such legislative powers as may be necessary to carry out into effect the general legislative power.[9]

This important principle of limitation on the rule making power of administrative agencies is illustrated in *Philippine Lawyer's Assn. v. Agrava*[10]. Director of Patents Agrava issused a circular scheduling an examination for the purpose of determining who are qualified to practice as patent attorneys and including, among those qualified to take the examination, members of the Philippine Bar. The PLA contended that the act of Agrava requiring attorneys to pass an examination given by the Patent Office as a condition precedent to their being allowed to practice before the Patent Office is in excess of his jurisdiction and is in violation of the law. To this allegation, Agrava countered that his action is in accordance with R.A. No. 165 (Patent Law) and that just as the Patent Law of the U.S. authorizes the Commissioner of Patents to prescribe examinations to determine as to who may practice before the USPO, he (Agrava) is similarly authorized to do so by R.A. No. 165.

The Court said that while the U.S. Patent Law authorized the Commissioner to require attorneys to show that they possess the necessary qualification and competence to render valuable service to and advise and assist their clients in patent cases, which showing may take the form of an examination, R.A. No. 165 (Sec. 78) is silent on this important point; and that the Court's attention has not been called to any express provision of R.A. 165 giving such authority to determine the qualifications of persons allowed to practice before the Patent Office. Sec. 551, Rev. Adm. Code authorizes every chief of bureaus to prescribe forms and make regulations or general orders not inconsistent with law, to secure the harmonious and efficient administration of his branch of service and to carry into full effect the laws relating to matters within the jurisdiction of his bureau. Were we to allow the Patent Office, in the absence of an express and clear provision of law giving the necessary sanction, to require lawyers to submit to and pass an examination prescribe by it before they are allowed to practice before said

8 G. R. No. L-12828, April 13, 1959
9 Supra Note 1
10 G. R. No L-12426, February 16, 1959

Patent Office, then there would be no reason why other bureaus may not also require that any lawyer practicing before them or otherwise transacting business with them on behalf of clients, shall first pass an examination to qualify.

JURISDICTION

Court of Industrial Relations

Jurisdiction of the CIR has been confined to the following: (1) when a labor dispute affects an industry indispensable to the national interest and is certified by the President of the Philippines to it; (2) when the controversy refers to minimum wage under R.A. 602; (3) when it involves the hours of employment under C.A. 444; and, (4) when it involves an unfair labor practice falling under Sec. 5 (a), R.A. 875.[11]

The confinement of the CIR's jurisdiction to such cases has been reiterated in *Chua Workers' Union v. City Automotive Co.*[12] *Donato v. Philippine Marine Officers' Assn.*[13], and *Philippine Sugar Institute v. CIR*[14].

In *MRR v. CIR*[15], the *Kapisanan ng Mga Manggagawa sa MRR* filed in behalf of its members a petition praying that the MRR reinstate said members to their former employment. The prosecution of the action was later abandoned, but some of the members continued the action. This was objected to by the MRR on the ground that the prosecution was abandoned by the Union with the effect that the members lost their standing in court and their right to prosecute. The Supreme Court ruled that after the CIR had acquired jurisdiction of the case, the secession or ouster of a member from a labor union that had commenced the action does not divest it of the jurisdiction it had acquired.

Courts of Tax Appeals

Where decisions of the Commissioner of Customs are contested, the proper court to review such decisions is not the CFI but the CTA.

In *Pepsi-Cola Bottling Co. of PI v. Manahan*[16], Manahan ordered the flavoring extracts imported by Pepsi-Cola seized in violation of Sec. 1363 (f), Rev. Adm. Code, and of Sec. 1 in relation to Sec. 3, R.A. 1410 (goods not covered by foreign exchange allocation). The CFI granted Pepsi-Cola a preliminary injunction, with Manahan contending that the court had no jurisdiction. It was held that to contest such seizure and confiscation, Pepsi-Cola should resort to the CTA because that courts was created with exclusive jurisdiction to review decisions of the Customs Commissioner in cases involving "seizure, detention or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs." Such power is so exclusive as to deprive the CFI of its previous authority to interfere (Sec. 1383 et seq., Rev. Adm. Code) with decisions of the Customs Commissioner, even in the form of proceedings for certiorari or mandamus or prohibition since there are in reality attempts to review the Commissioner's actuations.

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11 PAFLU v. Tan, 52 O.G. 5836 (1956); Reyes v. Tan, 52 O.G. 6187 (1956); PAFLU v. Barot, 52 O.G. 6544 (1956)
12 G. R. No. L-11635, April 29, 1959
13 G. R. No. L-12506, May 18, 1959
14 G. R. No. L-13098, October 29, 1959
15 G. R. No. L-12425, December 23, 1959
16 G. R. No. L-12096, April 30, 1959

The proceedings in the Court of Tax Appeals are in the nature of a judicial action. This was the ruling in *Alhambra Cigar & Cigarette Mfg. Co. v. Collector of Internal Revenue.*[17]

The Supreme Court's reasoning was as follows: (1) An assessment is not an action or proceeding for the collection of taxes. It is a step preliminary, but essential, to warrant distraint, if still feasible and also, to establish a cause for "judicial action" as the phrase is used in Sec. 316, Tax Code, reading: "The civil remedies for the collection of internal revenue taxes, fees or charges or any increment thereto resulting from delinquency shall be (a) by distraint of goods, chattels or effects and other personal property of whatever character, including stocks and interests in and rights to personal property and by levy upon the real property and interest in or right to real property; and, (b) by judicial action. Either of these remedies or both simultaneously may be pursued in the discretion of the authorities charged with the collection of such taxes . . . ." (2) In the interpretation of Sec. 316 of the Tax Code, the following must be borne in mind: (a) The term "judicial action" is used therein as contradistinguished from the collection of taxes by distraint — seizure and levy undertaken by the Collector and may be made with or without previous notice and hearing. Thus the "judicial action" contemplated in Sec. 316 is one which seeks collection of taxes upon the authority of an agency or body that has "decided' after due notice and hearing, that the assessment made by the CIR is in conformity with law; (b) When the new Internal Revenue Code was approved there was no CTA yet. When the remedy of distraint was not available owing to the expiration of the period provided in Sec. 51 (d) of the Tax Code, the Government had no choice but to bring an action before the ordinary courts. Some of the powers of these courts were, upon the creation of the CTA, transferred thereto. After the creation of the CTA, any person adversely affected by a decision or ruling on assessment by the CIR may appeal not to the regular courts but to the CTA. The authority to render the decisions necessarily connotes the power to pass upon and settle the issue raised in the case. (CIR as used here refers to the Collector of Internal Revenue).

In *Collector of Internal Revenue v. Sweeney et al*[18], the International Club of Iloilo, Inc., paid its fixed and percentage taxes assessed against it under protest and at the same time filed a claim for the refund of such payment made in the CTA. The CTA ordered the refund of the amount paid plus interest. It is contended by the Collector that the CTA is not empowered to award interest on refunds. It was held that in the absence of statutory provision directing refund with interest, the National Government cannot be required to pay such interest.[19]

Court of Agrarian Relations

In *Basilio v. de Guzman*[20], Basilio assailed the jurisdiction of the CAR because the complaint did not allege that Basilio was neither a tenant nor hired farmhand of one David. The plaintiff David filed a suit in the CAR alleging that Basilio's grandfather, who was their tenant, returned the land to David because of old age and that Basilio nevertheless continued tilling the land to the exclusion of the new tenant hired by David. Basilio in turn

17 G. R. No. L-12026, May 29, 1959
18 G. R. No. L-12178, August 21 1959
19 Collector v. St. Paul's Hospital of Iloilo, G. R. No. L-12127, May 25, 1959
20 G. R. No. L-12762, April 22, 1959

filed suit before the same court for damages due to his ejectment. It was ruled that the CAR disposed not only of David's case but also that of Basilio's wherein he alleged that he had been peaceably working "on the land since 1951 as the lawful tenant" of David so that the ejectment of Basilio ordered by the CAR was sustained.

The case of *Fernando v. Abaloc*[21], raised the contention that an agrarian case originally started in the CIR could not be transferred to the CAR. The Supreme Court ruled that apparent meaning of Sec. 7, R.A. 1267, is that cases which started in the CIR because the CAR had not yet been established when they were pending in the CIR should be transferred to the latter court. If the argument that the original case may not be transferred to the CAR because when the action was instituted the CAR did not yet exist and therefore the action is not within the jurisdiction of said CAR, then there would be no meaning to Sec. 7, R.A. 1409. The intention is to transfer cases then pending in the CIR to the CAR. The pending cases were those like the one at bar brought the CIR before the creation of the CAR.

Commissioner of Civil Service

The jurisdiction exercised by the Commissioner of Civil Service was dealt with in *Pastroiza v. Division Superintendent of Schools*[22].

In this case, Pastoriza, Supervisor of the Cebu Normal School Training Department, was administratively charged for maltreatment of a student before the Office of the Division Superintendent. He contended that the Division Supt. had no jurisdiction to proceed with the investigation, arguing that under Sec. 695, Rev. Adm. Code, the power is vested exclusively with the Commissioner of Civil Srevice. The Bureau of Public Schools was advised to take appropriate action by the Commissioner of Civil Service in accordance with Executive Order 370, s. 1941. The said EO provides that a complaint against an officer or employee of the government is to be filed with the head or chief of the bureau of office where he is working and the officer or employee concerned is required to answer the complaint within 72 hours after receipt thereof; should the officer or employee elect to be heard on the charges, a hearing will be held by the chief or head of the office who shall, after said hearing, forward to the CS Commissioner the records of the case with his comment or recommendation.

The effect of the EO, the high court ruled, operated to completely divest the CS Commissioner of his 'exclusive" power of investigation under Sec, 639, RAC. As to the relation of EO 370 with Sec. 695, RAC, it was held that EO 370 was promulgated before the grant of the 'exclusive" power to the CS Commissioner cannot limit the effect of said EO since the President as Department Head of the CS Commission could assume any of the powers of the Comissioner under Sec. 37, Public Law No. 4007, and promulgated rules and regulations to carry out the powers of the Commission on the subject. Furthermore, the New Civil Service Law[23] has changed the CS Commissioner's jurisdiction from "exclusive" to "final", and the procedure under EO 379 substantially conforms in its general outline with the new legislation. The new legislation containing no saving clause as to its applicability to matters which

21 G. R. No. L-12759, May 27, 1959
22 G. R. No. L-14233, September 23, 1959
23 R. A. No. 2260 approved June 19, 1959.

arose previous to its enactment (the maltreatment occured March 13, 1957), and because it is procedural it vests no right to any one, its application may not then be objected to.

Commissioner of Customs

A permit or license may not arbitrarily be revoked where, on the faith of it, the owner has incurred mterial expenses.[24]

This legal principle has been applied in *Commissioner of Customs v. Auyong Hian.*[25] The Import Control Commission issued a license to Hian to import goods under a "no dollar remittance basis." On the strength of such license, Hian imported goods accordingly. The President of the Philippines, acting through the Cabinet, cancelled Hian's license because it was illegally issued, "having no fixed date of expiration." The CTA reversed the decision of the Customs Commissioner affirming the seizure of the goods by the Collector of Customs. The issue was whether the cancellation of the license was justified. The court said that the power of cancellation cannot be exercised arbitrarily. The action must be founded on good ground or reason and must not be capricious or whimsical. The power here was not exercised properly because the license was cancelled only on the ground that it has no expiry date even if the importation had already been made. Had the license been cancelled before importation had affected, the same may be justified, for indeed, a license as a rule must be limited in point of time.

Commissioner of Immigration

An alien admitted into the Philippines as a temporary visitor is not entitled to stay beyond the period stated in the permit, and should the Commissioner of Immigration attempt to deport such alien he would, therefore, be acting not with grave abuse of discretion but in compliance with a duty imposed upon him by law, and hence within said Commissioner's jurisdiction. This was the ruling in *Hao Yeng v. Secretary of Foreign Affairs.*[26]

Under C.A. 613 which governs the entry of aliens in the Philippines, the Commissioner of Immigration is made the administrative head of the Bureau of Immigration and in charge of the administration of all laws relating to the immigration of aliens into the Philippines. His powers under such Act was involved in *Liong v. Commissioner of Immigration.*[27] In this case, Liong executed a bond in favor of the Bureau of Immigration to guarantee the compliance by his wife and son of the conditions for their temporary stay of three months in the Philippines. Upon petition of a friend to the Secretary of Foreign Affairs, Liong's wife and son were granted an extension of three more months. The Commissioner declared the forfeiture of the bond which Liong questioned. The court ruled that Sec. 40, C.A. 613, provided that the Commissioner "shall have the power to exact bonds . containing such conditions as he may prescribe . . ."; that is was stipulated in the bond that Liong guaranteed "that no request for extension of the original authorized stay" will be filed by him or by any other person in his behalf and to effect their departure upon the expiration of their authorized period of temporary stay, and that the Secretary of Foreign Affairs cannot alter, vary, or modify the undertaking stipulated in the bond because it was contractual in nature.

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24 Dainese v. Board of Public Works of District of Columbia, 91 U.S. 580 (1875)
25 G. R. No. L-11719, April 29, 1959
26 G. R. No. L-12342, April 30, 1959
27 G R. No. L-12231, December 29, 1929

Director of Lands

Where a patent to a homestead is registered and the corresponding certificate of title is issued, the land ceases to be part of the public domain and becomes private property over which the Director of Lands has neither control nor jurisdiction is the ruling in *Republic v. Carle.*[28]

Wage Administration Service

The law creating the WAS clearly indicates that an "action" must be brought "in any competent court" for the recovery of unpaid wages which employers fail or refuse to pay.[29]

Such was the ruling in *Potente v. Saulog Transit Inc.*[30] Potente filed a claim for unpaid overtime pay against Saulog Transit with the WAS inspector recommended a rendition of a "decision" finding Potente entitled to his claim. The acting chief of the Wage Protection Division recommended the approval of the "decision" and it was so approved by the acting chief of the WAS. A year later, Potente filed with the CFI a petition which alleged the rendition of a WAS "decision" which became final with no appeal by Saulog Transit and asked for satisfaction. The CFI ordered execution of the "decision". The issue was whether the "decision" of the WAS may be ordered executed by the CFI without an ordinary action for recovery of sum of money and without the CFI decision sentencing Saulog Transit. *Held*; Pursuant to Secs. 15 (d,e) and 16 (a) of R.A. 602 and the rules and regulations promulgated by the WAS to implement the Minimum Wage Law (Art. 7, secs. 1, 2, 4, 5, 6, and 9), when a claim for unpaid wages is filed, the WAS may cause employer to satisfy the unpaid wages through mediation, arbitration, or court action and by no other means. It has no authority to render a "decision" — in the sense in which this term is used in legal parlance — on the claim for wages, except insofar as it has to determine whether, in its opinion, the claim is meritorious, as a condition precedent to the institution, before "any competent court", of an ordinary "action" for the recovery of the sum of money it considers due to claimant.

The cases of *Santos v. Perez*[31], *Figueroa v. Saulog*[32] and *Ortega v. Saulog Transit.*[33] similarly lay down the ruling that decision of the WAS cannot be enforced without filing an ordinary action in court.

Workmen's Compensation Commission

Are educational insitutions included within the jurisdiction of the WCC? This was answered in the affirmative in *St. Thomas Aquinas Academy v. WCC.*[34]

In this case, Fumer was a teacher of the STAA. He met death during the school's graduation exercises due to the giving away of a weak railing of a balcony when he leaned against it. In contesting the widow's claim for compensation filed with the WCC, the school contended that compensation only applied to industrial employees and not to a teacher of an educational insitution. The contention was held untenable. In Sec. 39, Act 3428, "in-

28 G. R. No. L-12485, July 31, 1959
29 R. A. No. 602
30 G. R. No. L-12300, April 24, 1959
31 G. R. No. L-11777, June 29, 1959
32 G. R. No. L-12745, June 29, 1959
33 G. R. No. L-12290, May 29, 1959
34 G. R. No. L-12297, April 22, 1959

dustrial employment" in case of private employers includes all employment or work at a trade, occupation, or profession exercised by an employer for the purposes of gain, and it cannot be disputed that a private institution organized for profit comes within its scope. STAA has admitted that it is a private corporation whose stockholders are composed of private individuals including the decedent, and that it issues dividends to its stockholders.

But the case of *Espiritu Santo Parish v. Habitan*[35] holds that educational institutions not established for gain are not covered by the Workmen's Compensation Act despite the fact it pays interest on a loan for the construction of its buildings, pays income tax, and its liability as an employer in the construction of its school building was insured.

PROCEDURE

Publication

Public Service Commission

The issue raised in *De la Paz v. PSC*[36] was whetreh the PSC can grant a certificate of public convenience on a line different from theat applied for. It appears in this case that Carandang and others were applicants for the operation of a TPU service from Bonifacio Monument to Libertad via Highway 54, Buendia, and Cul-Culi. The certificate for such route was awarded to the MD Transit. Motions for reconsideration were filed by Carandang, de la Paz, and others. The motion were denied except that of Carandang who was granted a certificate on a line different from that he had applied for. The court said that the law requires that an order setting an application for hearing be published in two newspapers at least 10 days prior to the date of hearing. The implication is that an application cannot be amended as to substantially modify its objective without notice to the public and to the other operators whose lines may be affected. As this requirement has not been followed, the action of the PSC is illegal and unauthorized.

Evidence

Court of Agrarian Relations

In *Joya et al v. Pareja*[37] the question raised was whether the CAR, in a case filed by a tenant for reinstatement, had authority to prescribe the rental that must be paid by the tenant, it being claimed that such was never raised in the pleadings. It was ruled that the CAR is not restricted in handing down a decision to the specific relief claimed by the parties, but may include in its decisions any matter or determination which may be deemed necessary and expedient for the purpose of settling the dispute or of preventing further disputes, provided that said matter for determination has been established by competent evidence during the hearing.

Court of Industrial Relations

The CIR cannot grant backwages when such is not put in issue by the parties and to which no evidence was presented was the decision in *Donato v. Philippine Marine Officers' Assn.*[38]. Donato was an operator of fishing

35 G. R. No. L-12753, November 28, 1959
36 G. R. No. L-13833, August 13, 1959
37 G.R. No. L-13258, November 28, 1959

boats who dismissed two employees of hers after learning that said employees joined a labor union. She was charged for unfair labor practice and decision was rendered ordering her to reinstate said employees with backpay from the date of their dismissal until their reinstatement at the rate of ₱4 a day. The issue was whether or not the CIR could validly grant such backpay. It was ruled that the CIR has no such authority for the complaint against Donato was for unfair labor practice and such case was heard only on that issue.

Public Service Commission

In *Darang v. Salamida et al*[39], an application for a certificate of public convenience to operate a certain route with 6 units was made by Salamida. His evidence was taken by deposition before a Samar JP, whereas evidence for oppositors Darang was introduced in Manila. Subesequently, Salamida presented his rebuttal evidence to the opposition but a petition for the exclusion of such evidence was made together with a request to present surrebuttal evidence "before the case is submitted for decision" in the event of denial of such petition for exclusion. The PSC, however, rendered a decision granting the application. The court said that considering that the financial ability to operate a public utility service is material to every application, the PSC, before passing upon the application, should act upon the petition for exclusion by either granting or denying it or declaring that the resolution would be deferred until the case should be decided on the merits. At the same time, the PSC should give the oppositors in the last two alternatives an opportunity to introduce surrebuttal evidence before the rendition of judgment on the merits.

Due Process

Workmen's Compensation Commission

Administrative proceedings of a quasi-judicial character should provide for ample protection to the liberty and property of the individual by giving the parties a fair and full hearing, which has been termed as "the rudimentary requirements of fair play."[40]

Then contention was raised in *St. Thomas Aquinas Academy v. WCC*[41] that the WCC's order to pay a claim was void because the STAA received no notice of hearing of the claim. The WCC referee, however, allowed the STAA to submit its defenses. The court ruled that while under the law it is the duty of the referee to have reasonable notice of the hearing served on the interested party before such hearing is held, the law, however, also allows the referee to take the testimony of witnesses of the claimants or receive *ex parte* evidence even without notice to the adverse party provided such other party is given an opportunity to rebut the same by necessary evidence (Sec. 49, Act 3428). The referee here allowed in substance this porecdure. STAA cannot, therefore, claim that the case was heard without having given it its day in court.

38 Supra Note 13
39 G. R. No. L-12442, May 15, 1959
40 Morgan v. U.S. 304 U.S. 1 (1938), cited in SINCO V G., Philippine Political Law, p. 449 (10th Edition)
41 Supra Note 34

Appeal

Collector of Internal Revenue

Sec. 11, R.A. 1125, was explained in *Baguio Country Club Corp. v. Collector of Internal Revenue et al.*[42] On April 19, 1955, the BCC received a letter from the BIR requiring it to pay real estate dealer's tax. The BCC, 23 days after the receipt of the letter, wrote the BIR disputing and denying its tax liability and at the same time requesting reconsideration and cancellation of its alleged liability. On June 21, 1956, the BCC received the BIR reply denying its request. Sixteen days after the receipt of the BIR ruling, the BCC appealed to the CTA for review, which was filed on July 7, 1956. Appeal was dismissed due to failure to file it in time. *Held*: Appeal must be sustained as per Sec. 11, R.A. 1125. The assessment here became a "disputed assessment that the BIR must decide" when the taxpayer questioned its validity and asked for its reconsideration and withdrawal, and that the the taxpayer could appeal to the CTA "only upon receipt of the decision" of the BIR on the disputed assessment. This means that the 30-day period allowed to BCC to take the appeal commenced to run only from June 21, 1956, the day BCC received said decision (citing *St. Stephen's Ass. v. BIR*, G.R. No. L-11238, August, 31, 1958). It follows that the appeal taken by BCC on July 7, 1956, from the decision of the BIR and received on the twenty-first of the preceding month was well within the time prescribed by the statute.

Court of Tax Appeals

Whether an appeal from an adverse decision of the Collector of Customs to the Commissioner of Customs is a rule of procedure and that such rule may be overlooked if it does not involve a public policy and such lapse in procedure arises from an honest mistake was raised in *Chan Kian v. CTA et al.*[43] It was held that the period of 15 days prescribed by law for an appeal in cases of forfeiture ordered by the Collector of Customs is not a matter of procedure which courts may ignore. The period of appeal is fixed by law at 15 days in order that penalties for violations of the laws or rules on importation may be promptly enforced. Questions involving forfeiture should be decided promptly and expeditiously, or delays may result in the clogging of Customs warehouses with merchandise illegally imported. It is beyond the power of courts to extend the period of appeal.

Review

Workmen's Compensation Commission

The Rules of the WCC (Sec. 3, Rule 10) provides that any petition for review must be filed within 15 days from the receipt of notice of any referee's order or award of the *Commissioner unless further time is granted by the referee or the Commissioner within said 15 days.* In *Luzon Brokerage Co., Inc. v. Daya et al,*[44] the claimants received a copy of the referee's adverse opinion on February 16, 1954. A petition for review was filed on March 31, 1954, after three successive motions for extension were filed and approved. The LBC contended that the petition was filed out of time, since a petition for review may be filed only within an extension of time which the referee or Commissioner must grant within the original reglamentary period of 15 days and that the referee has no power to allow any extension

42 G. R. No. L-11419, April 22, 1959
43 G. R. No. L-12184, May 29, 1959
44 G. R. No. L-10362, November 27, 1959

beyond the said 15 days. The court said that any additional period of time allowed or granted forms part of the whole period of time allowed or granted for extension of time for review of the referee's opinion may be filed.

National Urban Planning Commission

In *Mendoza v. Arellano et al*,[45] the NUPC denied the approval of a subdivision plan by a co-owner of a parcel of land made for the purpose of securing a separate title on the portion belonging to him to be later mortgaged to the RFC to secure a loan. Approval of the subdivision plan by the Bureau of Lands depended upon the approval of the same by the NUPC. Refusal of the NUPC was based on the ground that the individual (lots) area of the resulting sublots were below the minimum area of 180 sq. m. required by the Subdivision Regulations. The court ruled that though the NUPC was given given the power of making and adopting regulations which shall govern the subdivisions of land in any urban area, the regulations in this case were intended to govern only the subdivision of land for commercial ends.

The Provincial Board

What action by the Provincial Board of an application to it of a franchise may be regarded as an approval was discussed in *Papa et v. Santiago*.[46] Papa was granted a franchise by the municipality of Pasig to operate a telephone service. The resolution granting such franchise to Papa by virtue of Act 667 was referred to the Provincial Board for approval. The PB forwarded the resolution to the PSC and to the President of the Philippines "recommending approval". Meantime, Pasig passed a resolution revoking the franchise granted to Papa for failure to install the phone service. Such resolution or revocation was approved by the PB. Pasig then granted to Santiago the franchise and which grant was approved by the PB. The PSC dismissed Papa's previous application for a certificate of public convenience and necessity because the action of the PB "recommending approval" was not the express and explicit approval required by Act 667, Sec. 2. The court held that the PB could: (1) approve, (2) disapprove, (3) forward to PSC and President without recommendation, (4) forward the same recommending disapproval, and, (5) recommending approval. The PB's action here may correctly and reasonably be regarded as an approval in the eyes of the law. The PSC in Case 76560 construed a similar action of another PB as approval within the meaning of the law.

REMEDIES AGAINST ADMINISTRATIVE AGENCIES

Mandamus

Veteran's Backpay Commission

One of the defenses raised by the VBC in a suit brought against it in the case of *Tan v. VBC*[47] was that mandamus will not lie to compel the exercise of discretionary functions. *Held*: The VBC's discretion is limited to merely evaluating the evidenced whether or not a claimant is a member of a guerilla force recognized by the U.S. Army. Nowhere in the law is the VBC given the power to adjudicate or determine rights after such facts

45 G. R. No. L-11518, November 27, 1959
46 G. R. No. L-12433, February 28, 1959
47 G. R. No. L-12944, March 30, 1959

are established. Having satisfied that the decedent was an officer of a recognized guerilla outfit, it becomes the ministerial duty of the VBC to give due course to Tan's application.

Secretary of Public Works & Communications

The case of *Gorospe v. Secretary of Public Works et al*[48] likewise held that mandamus will not lie to compel the reinstatement in the government service of an employee who has been previously dismissed for cause provided for any law after invistigation; that it will not also lie when reinstatement is subject to the availability of a suitable position and after the appointing officer has been apprised of a previous dismissal for misconduct in office.

JUDICIAL REVIEW

Exhaustion of Administrative Remedies

It is a sound rule that before one resorts to courts, the administrative remedy provided by law should first be exhausted.[49] The doctrine is based on consideration of comity and convenience. If a remedy is still available within the administrative machinery, this should be resorted to before resort can be made to the courts, not only to give the administrative agency opportunity to decide the matter by itself correctly, but also to prevent unnecessary and premature resort to the courts.[50]

An administrative agency, however, may be in estoppel in invoking this doctrine to defeat a suit brought against it. This is illustrated in *M. Vda. de Tan v. Veterans Backpay Commission*.[51] Tan in this case tried to collect the back pay of her decedent husband under R.A. 897 from the VBC. The VBC refused to pay alleging that aliens were not entitled to backpay under the law. The widow filed mandamus proceeding against the VBC. Defense was that Tan failed to exhaust administrative remedies and her failure so to do was a bar to her court action. But the court held that the VBC is in estoppel to invoke the rule, considering that in its resolution it declared that the opinions of the Secretary of Justice are advisory in nature and which may either be accepted or ignored by the VBC and that "any aggrieved party has the court for resort."

Neither may the rule be invoked by an administrative officer where from the very beginning his action is patently illegal, arbitrary, and oppressive; when there has been on semblance of compliance, or even an attempt to comply, with the pertinent laws; when, manifestly, he has acted without jurisdiction, or has exceeded his jurisdiction, or has committed a grave abuse of discretion, amounting to lack of jurisdiction; when his act is clearly and obviously devoid of any color of authority.[52]

The above principle was applied in *Mangubat et al v. Osmeña et al.*[53] The issue was whether appeal as provided in Sec. 21, C.A. No. 58 (Charter of Cebu City) is a condition *sine qua non* to every suit for the protection of the rights of civil service employees who have been suspended or removed by the city mayor. The pertinent section of the city charter provides: "...Subject to Civil

48 G. R. No. L-11090, January 31, 1959
49 Lopez & Sons, Inc. v. CTA, 53 O.G. #10, 3065 (1957)
50 Montes v. Civil Service Board, G. R. No. L-10759, May 20, 1957
51 Supra Note 47
52 Mission v. del Rosario, 50 O.G. 1571 (1954) Uy v. Rodriguez, 50 O.G. 3574 (1954); Abella v. Rodriguez, 50 O.G. 359 (1954)
53 G. R. No. L-12837, April 30, 1959

Service Law, the Mayor shall appoint all other officers and employees of the city whose appointment is not otherwise provided for by law. The Mayor may suspend, and remove, any appointive officer or employee not appointed by the President of the Philippines...Any such suspension or removal by the Mayor shall be appealable to the Department Head, whose determination of the matter shall be final." Mangubat et al, Civil Service eligibles, were dismissed as detectives and who were ordered reinstated by the CFI. The Supreme Court held that said appeal is not always a prerequisite to the exercise of judicial power for the redress of the wrong done to the employee concerned, and the employee adversely affected may forthwith seek the protection of the judicial department.

From an adverse decision of the Secretary of Agriculture and Natural Resources, a party need not exhaust all available administrative remedies before resort is made to the courts. Thus ruled the Supreme Court in *Dimaisip v. Court of Appeals.*[54] It was held that in view of the theory that a Secretary of a Department is merely an *alter ego* of the President, failure of a petitioner to appeal from the adverse decision of the Secretary of Agriculture to the President does not preclude him from taking court action. The presumption then is that the action of the Secretary bears the implied sanction of the President of the Philippines unless the same is disapproved by the latter. Hence, it is thus incorrect to say that petitioner's action should not be entertained on the ground that he failed to exhaust all remedies available to him.

Where the only question to be settled is a purely legal one and nothing of an administrative nature is to be or can be done, court action can, nevertheless, be taken without the necessity of making an administrative appeal first.

In *Pascual v. Provincial Board of Nueva Ecija,*[55] elected mayor Pascual was administratively charged for alleged wrongful acts committed during his previous term of office. He contended that such ground could not constitute a basis for disciplinary action during his second term of office. A writ of prohibition with preliminary injunction was filed against the Provincial Board to enjoin it from taking cognizance of such charge. The CFI sustained the Board's contention that Pascual failed to exhaust the available administrative remedies. The Supreme Court held that while the settled rule in this jurisdiction is that where the law has delineated the procedure by which administrative appeal can be taken, the same should be followed before resorting to judicial action when the only question to be settled is a purely legal one, *i.e.*, as in this case, whether or not a municipal mayor may be subjected to an administrative charge based on misconduct allegedly committed by him during his previous term, and nothing of an administrative nature is to be or can be done, judicial action can be taken without exhausting the available administrative remedies.

Findings of Fact

Some statutes provide for the finality of administrative determinations on both questions or fact and law; and courts have upheld their validity, when they do not violate definite constitutional provisions, and have refused to review such determinations except when they are made outside the jurisdictional limits set forth in the statute or are exercised with abuse of the powers granted.[56]

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54 G. R. No. L-13000, September 25, 1959
55 G. R. No. L-11959, October 15, 1959
56 Dismuko v. U.S., 297 U.S. 167 (1936); Lorenzo v. McCoy, 15 Phil. 559 (1910), cited in SINCO V. G., Philippine Political Law, p. 451, (10th Edition)

Court of Industrial Relations

Findings of fact by the CIR are conclusive and cannot be reviewed by the Supreme Court. This rule was reiterated in *Donato v. Philippine Marine Officers' Assn.*[57] where one of the issues raised on appeal was whether or not the two employees dismissed were "employees" under the Industrial Peace Act. The Supreme Court said that since the CIR found that the persons dismissed were "employees" considering the nature of their employment, such finding was binding on the high court.

Director of Lands

The Public Land Law (C.A. 141, Sec. 4) provides that the decisions of the Director of Lands as to questions of fact involving lands of the public domain are final and conclusive when approved by the DANR Secretary. In compliance with this directive, the Supreme Court in *Denopol v. Director of Lands*[58] held that the lower court did not abuse its discretion in declining to interfere with the decision of the Director of Lands allóting 24 ha. by homestead to one Junto and 5 ha. by sales patent to Denopol and which was approved by the DANR Secretary on Appeal.

Public Service Commission

The findings of the PSC in *Bacrach Motor Co. v. Guico*[59] and *Mallorca v. Maestro*[60] were upheld on appeal to the Supreme Court because such findings were reasonably supported by evidence.

Finality of Administrative Decisions

To preserve the rule of law, the courts should be authorized to review administrative decisions on either both questions of fact and law or questions of law alone.[61] The extent of the power of review as actually exercised by the courts over administrative determinations varies with the nature of the interests or rights dealt with by the administrative agencies. When constitutional rights of the individual affecting his person or his property are involved, the courts unhesistatingly use their power of review to correct administrative errors strictly and even meticulously. On the other hand, when an administrative determination involves rights or interests which are purely of statutory creation, judicial review over it is entirely dependent upon the provisions of the statute which may even eliminate judicial intervention.[62]

Thus in *Heirs of B. A. Crumb et al v. M. Rodriguez et al*,[63] the decision of the Director of Lands as approved by the Secretary of Agriculture and Natural Resources was brought before the court for review. A lease for tracts of public land was awarded to the heirs of decedent applicant B. A. Crumb. The lease was later disapproved because parts thereof were alleged to have been subleased to aliens disqualified to lease public lands. A motion for reconsideration by the heirs was granted favorably to them by the Director of Lands. Rodriguez appealed to the Secretary of Agriculture which was denied. The same action was taken by the President of the Philippines. Before expiration of the lease, the heirs applied for its renewal which was approved by the DANR Secretary,

57 Supra Note 13
58 G. R. No. L-13829, November 28, 1959, citing Ortua v. Encarnacion, 59 Phil. 441 (1934)
59 G. R. No. L-12619-20, August 28, 1959
60 G. R. No. L-12354, May 11, 1959
61 WILLOUGHBY, W. F., Principles of Judicial Administrative, pp. 19-25; DICKINSON, Administrative Justice and the Supremacy of Law, pp. 32-38, cited in SINCO, V. G., Philippine Political Law, p 451, (10th Edition)
62 SINCO, V. G., Philippine Political Law, p. 451 (10th Edition)
63 G. R. No. L-7954, March 31, 959

despite Rodriguez' opposition. The heirs brought ejectment proceedings against Rodriguez who assailed the action of the government officers. The court ruled that as power to lease lands of public domain is vested in the Director of Lands with the approval of the DANR Secretary and authority to renew lease lies within the discretion of the DANR Secretary, decision of the Director of Lands with the approval of the DANR Secretary may not be reviewed by courts in the absence of fraud.

In *Sambo et al v. Auditor General*,[64] Sambo filed a petition for review of a decision of the Auditor General denying his claim for salaries while in the employ of the Institute of Nutrition. It appeared that Sambo presented his claim to the AG twice: first, on November 13, 1956 and the adverse decision of the AG sustained by the Office of the President on March 1, 1957; and, second, on June 20, 1957, and which was denied by the AG on June 27, 1957. *Held*: The previous ruling of the AG was not appealed to the Supreme Court under Sec. 2, C. A. 321, although Sambo had asked for writ of mandamus to compel the AG to order payment of their salaries on April 15, 1957. Their petition was dismissed for lack of merit and also because Sambo had chosen to appeal the ruling of the President under Sec. 2, Act 327. The President having ruled against Sambo, his ruling was final on the merits of the claim. Denial of Sambo's claim under his own name now did not have the effect of reviving his right to appeal to the court, since said decision of the AG merely reiterates the first ruling that had already become final and conclusive.

In the case of *Ortiz v. Pacific Engineering Co.*,[65] Ortiz filed a claim for overtime and differential pay as watchman before the Wage Administration Service. The WAS ruled that the claim was without merit. Ortiz then filed an action in the municipal court for the same claim in which the PEC was absolved. His appeal to the CFI was also dismissed. On appeal to the Supreme Court, it was ruled that when Ortiz filed his claim before the WAS, he voluntarily recognized and submitted to its authority and jurisdiction. He thereby bound himself to abide by its decision, subject only to the right of appeal. Under the Minimum Wage Law, he could have obtained a review of the WAS' ruling within 15 days after the entry and publication of its decision. To countenance now judicial action by Ortiz after he had failed to appeal from the adverse verdict, would be to strip the regular proceedings of a validly constituted agency of their virtuality. This is neither salutary nor sanctioned by law.

Judicial review of an administrative decision was also sought in *Alvarez v. Director of Lands*.[66] Isarog Lodge No. 3 of the Free and Accepted Masons applied for a lease of a parcel of public land. Garcia opposed the application because the Lodge had no juridical personality. The Director of Lands overruled the opposition, but on appeal to the DANR Secretary the Director's decision was reversed. Motion for reconsideration denied, the Lodge appealed to the high court. The court said that Sec. 33, C. A. 141, requires corporations or associations applying for lease of lands of the public domain that they be organized and constituted under the laws of the Philippines, and Sec. 90 (a) of the same Act ordains them to attach to the lease application a certified copy of their articles of incorporation. As the Isarog Lodge is an unincorporated association, being a branch of the Grand Lodge of the Philippines, it cannot by itself alone lease lands of the public domain.

64 G.R. No. L-12548, February 27, 1959
65 G. R. No. L-12086, January 30, 1959
66 G.R. No. L-11486, January 30, 1959