LABOR RELATIONS LAW

CRISOLITO PASCUAL*

I. INTRODUCTION

Is the Supreme Court moving away from legal positivism to the natural law approach in the solution of the hard cases in labor relations law?

The view articulated by then Justice (now Chief Justice) Roberto Concepcion in a lecture delivered at the Second Annual Institute on Labor Relations Law in May of 1965 is enlightening on this question. There he said:

> "This is what I tried to stress in urging that labor laws be construed in the spirit of its humane objective, namely, that judges often find themselves confronted by the question: how far may we go in the pursuit of "equity" as distinguished from "law"? The natural, logical and even plausible tendency or preference of every man is to do what he thinks is just, fair and equitable, even if the same were against the letter of the law, which is often characterized, in such cases, as a 'technicality', whatever that means.
>
> * * *
>
> "To put it differently, judges are as human as any other member of the human family. Accordingly, the view of each judge on what is demanded by the 'interest of justice' — although the import of this phrase is rather nebulous — is an important and often decisive factor."

Some have attributed this natural law approach to judicial conservatism. I think these are different approaches. In any case, this idealism is traceable to *Rutter v. Esteban*,[1] where the Supreme Court expressly appealed to the supra positive law — to righteousness, justice and fairness. If this is now the standard applied by the Supreme Court, then it may explain why its decisions in the hard cases are not easy to reconcile with the decisive statutory provisions.

I must say again that this survey is critical only in the sense that it is an appraisal of the decisions of the Supreme Court in the light of the statutory provisions involved, the industrial history back of such provisions, and the generally accepted analysis of knowledgeable writers in labor relations law.

---

*Professor of Law, University of the Philippines.

[1] 93 Phil. 68 (1953).

II. DETERMINATION OF JURISDICTION OF THE COURT OF INDUSTRIAL RELATIONS

A. Basis

It is well-settled that the authority of the Court of Industrial Relations to hear and decide a case is determined by the allegations in the complaint or petition. This means that the truth of the allegations must be theoretically admitted until facts subsequently presented in the hearing show otherwise. In different words, the question of jurisdiction of the Court of Industrial Relations is not resolved by consideration of the allegations in the complaint or petition and the contrary averments contained in the answer or reply of the other party.[2] This rule was applied anew by the Supreme Court in the cases of *Red V Coconut Products, Ltd. v. Court of Industrial Relations*[3] and *Bay View Hotel, Inc. v. Manila Hotel Workers Union.*[4]

B. Amendment of Pleading

It is a rule equally settled that a complaint or petition cannot be amended to confer jurisdiction on the Court of Industrial Relations if it appears from the pleading that it has no jurisdiction over the case. This rule was applied again by the Supreme Court in the case of *Justo v. Court of Industrial Relations.*[5] Pursuant to these decisions, the Court of Industrial Relations cannot allow the amendment of a petition or complaint where on its face the cause of action or subject matter of the case is beyond the court's competence. If the cause of action is not expressed with sufficiency but the court has otherwise jurisdiction over the case, then the petition or complaint may be amended with the prior consent of the court.

III. APPEAL FROM DECISIONS OF THE COURT OF INDUSTRIAL RELATIONS

A. Condition Precedent

In the case of *National Marketing Corporation Employees and Workers Association v. Tabigne,*[6] the Supreme Court reiterated the

---

[2] Layno v. de la Cruz, G.R. No. 20636, April 30, 1965; Tuvera v. de Guzman, G.R. No. 20547, April 20, 1965; Associated Labor Union v. Ramolete, G.R. No. 23527, March 31, 1965; Abo v. Philam. Employees and Workers Union, G.R. No. 19912, Jan. 30, 1965.

[3] G.R. No. 21348, June 30, 1966.

[4] G.R. No. 21803, Dec. 17, 1966.

[5] G.R. No. 22173, July 7, 1966.

[6] G.R. No. 23294, April 30, 1966.

procedural rule expressed in the case of *Broce v. Court of Industrial Relations*,[7] that an order, award or decision of a judge of the Court of Industrial Relations cannot be appealed directly to the Supreme Court but requires an intermediate motion for reconsideration filed with the Court of Industrial Relations. The failure to file a motion for reconsideration of an order of a judge of the Court of Industrial Relations is fatal to the assumption of jurisdiction by the Supreme Court.

It should be noted that under Section 1 of Commonwealth Act No. 103, any of the trial judges may file with the Court of Industrial Relations a request for reconsideration. Generally, however, the motion for reconsideration is filed by the aggrieved party.

B. STAY OF DECISION OF TRIAL JUDGE

In the 1966 *National Marketing Corporation* case, the Supreme Court also ruled that the Court of Industrial Relations may, upon proper application, issue an interlocutory order staying or suspending the enforcement of any award, order, or decision issued by any of the trial judges, pending the resolution of the motion for reconsideration filed by the aggrieved party in order to prevent the reconsideration from becoming nugatory. Speaking through Justice Jose B. L. Reyes, the Supreme Court stated that the power of the Court of Industrial Relations to grant the stay of an order, award or decision, which is the subject matter of a motion for reconsideration, is implied from the power of the Court of Industrial Relations, seating *in banc*, to affirm, alter, modify or reverse the orders, rulings or decisions of any of its trial judges.[8]

IV. UNFAIR LABOR PRACTICE CASES

A. WHEN COMPLAINT IS TO BE DISMISSED

May the Court of Industrial Relations absolve an employee from a complaint of unfair labor practice and yet order him to pay the complaining employees their back wages for the period of their lay off? The Court of Industrial Relations felt that, under Commonwealth Act No. 103, it has broad powers to issue the affirmative relief of reinstatement with back wages even if the unfair labor practice case is to be dismissed.

---

[7] G.R. No. 12367, Oct. 28, 1959; 56 O.G. 7445 (Dec. 1960).

[8] Section 20, Com. Act No. 103 (1936), as amended. Luzon Stevedoring Co., Inc. v. Luzon Marine Department Union, G.R. No. 9265, April 29, 1957; Connel Bros. Co. (Phil.) v. National Labor Union, G.R. No. 3631, Jan. 30, 1956.

This view was tested in the case of *Pan American World Airways, Inc. v. Court of Industrial Relations.*[9] In this case, the question involved the application of Section 5(c) of the Industrial Peace Act, the pertinent provision of which are as follows:

> . . . If after investigation the Court shall be of the opinion that no person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Court shall state its findings of fact and shall issue an order dismissing the said complaint. If the complaining party withdraws its complaint, the Court shall dismiss the case.

Speaking through Justice Calixto Zaldivar, the Supreme Court held that where the unfair labor practice is to be dismissed on the ground that no person has engaged or is engaging in any unfair labor practice or on the ground that the complaining party has withdrawn his unfair labor practice complaint, then the Court of Industrial Relations cannot make use of its broad powers of mediation and conciliation under Commonwealth Act No. 103[10] by ordering the reinstatement of the complainants or the payment of back wages. The Court must limit itself to the dismissal of the unfair labor practice case, in accordance with Section 5(c) of the Industrial Peace Act.[11]

B. Effect of Filing of ULP Case on a Pending Case Before the Court of First Instance

Under Section 5(b) of the Industrial Peace Act, the Court of Industrial Relations is required to investigate any charge filed by an offended party or his representative that a person has engaged or is engaging in any unfair labor practice.

In the case of *Citizens League of Free Workers v. Abbas,*[12] the Supreme Court, in an opinion by Justice Arsenio P. Dizon, ruled that the filing of an unfair labor practice case with the Court of Industrial Relations deprives the Court of First Instance of jurisdiction over a case involving a labor dispute previously filed before it. The regular court may either dismiss the case pending before it without prejudice or suspend the proceedings therein until the

---

[9] G.R. No. 20434, July 30, 1966.

[10] Section 5(b), Rep. Act No. 875 (1953).

[11] Malaya Workers Union v. Court of Industrial Relations, G.R. No. 17880 and 17881, April 23, 1963; Baguio Gold Mining Co. v. Tabisola, G.R. No. 15265, April 27, 1962; Naric Workers Union v. Court of Industrial Relations, G.R. No. 14999, Dec. 30, 1961; Pomposa Vda. de Nator v. Court of Industrial Relations, G.R. No. 16671, March 30, 1962; San Miguel Brewery, Inc. v. Floresca, G.R. No. 15427, April 26, 1962; Cagalawan v. Customs Canteen, G.R. No. 16031, Oct. 31, 1961; National Labor Union v. Insular-Yebana Tobacco Corp., G.R. No. 15363, July 31, 1961, 58 O.G. 6447 (Oct. 1962).

[12] G.R. No. 21212, Sept. 23, 1966.

final resolution of the case pending before the Court of Industrial Relations.

V. CONCLUSIVENESS OF FINDINGS OF FACT OF THE COURT OF INDUSTRIAL RELATIONS

It's time that the Supreme Court should come to grips with the problem of the conclusiveness of the findings of the Court of Industrial Relations with respect to questions of fact.

The decisions of the Supreme Court on this problem have neither been firm nor coherent. For example, during the year in review, the Supreme Court, within a period of two months, changed its position on this problem twice. In the first case on this question decided last year, *Manila Cordage Company v. Vibar*,[13] Justice Roberto Regala, who wrote the decision for the Supreme Court, applied the preponderance of evidence rule and reversed the Court of Industrial Relations on the ground that the findings of fact of the lower court, although supported by evidence in the record of the case, were contradicted by other evidence also in the record. But in just one month, in the case of *East Asiatic Co., Ltd. v. Court of Industrial Relations*,[14] the Supreme Court reversed itself and held that the law does not require it to pass on the weight or preponderance of proof in labor cases. Speaking through former Chief Justice Cesar Bengzon, the Supreme Court ruled that "the findings of fact of the Court of Industrial Relations are conclusive if such is supported by some evidence in the record." Fifteen days later, in three cases decided jointly, namely, *Manila Luzon Stevedoring Corporation v. Court of Industrial Relations*,[15] *Luzteveco Employees Association v. Luzon Stevedoring Corporation*,[16] and *Luzon Stevedoring Corporation v. Court of Industrial Relations*,[17] the Supreme Court, in an opinion prepared by Justice Jose P. Bengzon, went along with the ruling in the *East Asiatic Co.* case and held that the findings of fact of the Court of Industrial Relations are conclusive so long as they are supported by evidence because the preponderance of evidence rule is not the test in this jurisdiction. By just as swiftly, the Supreme Court, now speaking through then Justice (now Chief Justice) Roberto Concepcion, in the case of *Ferrer v. Court of Industrial Relations*,[18] reversed itself once more and returned to the preponderance of evidence rule previously applied

[13] G.R. No. 21663, March 31, 1966.
[14] G.R. No. 17037, April 30, 1966.
[15] G.R. No. 17411, May 19, 1966.
[16] G.R. No. 18681, May 19, 1966.
[17] G.R. No. 18683, May 19, 1966.
[18] G.R. No. 24267, May 31, 1966.

in the *Manila Cordage Company*[19] case by upholding the findings of fact of the trial judge over the findings of fact of the Court of Industrial Relations sitting in *banc*.

Section 6 of the Industrial Peace Act provides that the findings of the Court of Industrial Relations with respect to questions of fact if supported by substantial evidence on the record shall be conclusive.

Because of the contrasting decisions promulgated through the years by the Supreme Court on this point, I have consistently raised the question of whether it is enough that the findings of fact of the Court of Industrial Relations is supported by some evidence in the record of the case to be conclusive on the Supreme Court, regardless of the possibility, not entirely remote that there may be contrary evidence in the same record. It has been my opinion that on the whole Section 6 of the Industrial Peace Act does not preclude a review of the findings of fact of the Court of Industrial Relations where such findings are not supported by *substantial* evidence in the record of the case. The Supreme Court itself in a very early case, *Ang Tibay v. Court of Industrial Relations*,[20] stated that "substantial evidence" means evidence which a reasonable mind would accept as adequate to support a conclusion. It is plain that evidence is not adequate to support a conclusion if it is reached arbitrarily, that is to say, without consideration of contrary evidence. The Supreme Court is not without responsibility for the reasonableness and sufficiency of the findings of fact of the Court of Industrial Relations.

It is interesting to note the history back of this concept. Prior to the amendment of the National Labor Relations Act, it was provided that the findings of fact of the National Labor Relations Board is conclusive so long as there is *evidence* to support it.[21] But the Supreme Court of the United States, in the case of *Washington V. and M. Coach Co. v. National Labor Relations Board*,[22] interpreted the term "evidence" used in the National Labor Relations Act to mean "substantial evidence". As a result of this decision, the reviewing courts in the United States took into account whatever in the record of the case fairly detracts from the evidence on which the findings of fact is based. Obviously, the evidence on which the findings of fact is based would not be "substantial", that is to say, true, strong, material, or positive, if contrary evidence in the re-

[19] G.R. No. 21663, March 31, 1966.
[20] 69 Phil. 635 (1940).
[21] Section 10(e), and (f), National Labor Relations Act (1935).
[22] 301 U.S. 142, 81 L.Ed. 965, 57 S.Ct. 648 (1937).

cord of the case were not also taken into account. When the National Labor Relations Act was amended, the American Congress adopted the decision of the U.S. Supreme Court in the *Washington Coach* case and required "substantial evidence" for the Board's findings of fact to be conclusive on the reviewing courts. This was the situation or state of the American federal legislation on this matter when Section 6 of the Industrial Peace Act was patterned after it.

This interpretation was adopted by our Supreme Court in the early case of *United States Lines v. Associated Watchmen and Security Union.*[23] In this case, the Supreme Court ruled that the term "substantial evidence" does not mean just any evidence but evidence which is "more than a scintilla, and must do more to create a suspicion of the evidence of the fact established. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." If this means anything, it is that the evidence supporting the findings of fact of the Court of Industrial Relations is adequate only if it prevails over contrary evidence appearing in the same record.

But it is noteworthy that notwithstanding the frequent change of mind of the Supreme Court on the question of the conclusiveness of the findings of fact of the Court of Industrial Relations, the Supreme Court is now beginning to decide this question in the manner that Congress intended Section 6 of the Industrial Peace Act to operate. As matters stand during the year in review, the Supreme Court feels that the term "substantial evidence" in Section 6 of the Industrial Peace Act means preponderance of evidence. Indeed, in the case of *Cinema, Stage and Radio Entertainment Free Workers v. Court of Industrial Relations,*[24] the Supreme Court, in an opinion by Justice Jesus G. Barrera, considered the record of the case as a whole in reaching a decision as to the conclusiveness of the findings of fact of the Court of Industrial Relations.

I hope the Supreme Court firms up on this. In any event, the *Draft Administrative Code* prepared by the U.P. Law Center, which is now pending in Congress, has a provision requiring court review to be based on the whole record of a case.

VI. THE PROBLEM OF SCOPE OF JURISDICTION OF THE COURT OF INDUSTRIAL RELATIONS

One class of decisions of the Supreme Court which is difficult to reconcile with the Industrial Peace Act deals with the jurisdictional competence of the Court of Industrial Relations.

[23] G.R. No. 12208-11 May 21, 1958.
[24] G.R. No. 19879, Dec. 17, 1966.

During the year in review, the Supreme Court reiterated four times the doctrine advanced in *Philippine Association of Free Labor Unions v. Tan*[25] and *Price Stabilization Corporation v. Court of Industrial Relations*.[26] Speaking through Justice Fred Ruiz Castro in the case of *Nasipit Labor Union v. Court of Industrial Relations*,[27] through Justice Roberto Regala in *Talisay-Silay Milling Co., Inc. v. Court of Industrial Relations*,[28] through Justice Jesus G. Barrera in *Casino Español de Manila v. Court of Industrial Relations*,[29] and through Justice Conrado V. Sanchez in *Bay View Hotel, Inc. v. Manila Hotel Workers' Union*,[30] the Supreme Court ruled that under existing law and jurisprudence the jurisdiction of the Court of Industrial Relations extends only to: 1) labor disputes in industries which are indispensable to the national interest and certified as such by the President to the court, 2) controversies involving unfair labor practices, 3) controversies dealing with minimum wages under the Minimum Wage Law, and 4) controversies concerning hours of work under the Eight-Hour Labor Law, provided that in any of these types of cases there exists an employer-employee relationship between the parties or, when this condition is absent, plaintiff or petitioner seeks his reinstatement.

This position is untenable on two counts. First, the view that the jurisdiction of the Court of Industrial Relations extends only to these four types of cases does not coincide with the public policy expressed in Section 7 of the Industrial Peace Act. This Section provides as follows:

> Sec. 7. *Fixing Working Conditions by Court Order.* — In order to prevent undue restriction of free enterprise for capital and labor and to encourage the truly democratic method of regulating the relations between the employer and 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 this Act is otherwise provided and except as is provided in Republic Act Numbered Six hundred and two and Commonwealth Act Numbered Four hundred forty-four as to hours of work.

The crucial point in this policy declaration is the lack of power of any court in the Philippines to *compulsorily arbitrate* questions which have to do with the areas of collective bargaining. These areas are, by express provisions of law, made the original concern

---

[25] G.R. No. 9115, Aug. 31, 1956, 52 O.G. 5836 (Oct. 1956).
[26] G.R. No. 13806, May 23, 1960.
[27] G.R. No. 17838, Aug. 3, 1966.
[28] G.R. No. 21852, Nov. 29, 1966.
[29] G.R. No. 18159, Dec. 17, 1966.
[30] G.R. No. 21803, Dec. 17, 1966.

of labor and management. This is the underlying philosophy of the Industrial Peace Act. This is the meaning of the opening phrase of Section 7 of the Industrial Peace Act. In different words, the law recognizes that agreements reached by the parties across the bargaining table goes a very long way in preventing undue restrictions of free enterprises for capital and labor and encourages the truly democratic method of regulating the relations between employer and employees.

Of course, the rule in Section 7 withdrawn from the Court of Industrial Relations the power to compulsorily arbitrate bargainable matters is not absolute. The same section of the Industrial Peace Act still allows the Court of Industrial Relations to exercise its power of compulsory arbitration when a case involves: 1) a labor dispute occuring in an industry indispensable to the national interest, present all conditions provided in Section 10 of the Industrial Peace Act; 2) a labor dispute enmeshed in an actual strike or a controversy concerning minimum wages above the applicable statutory minimum or wage-order minimum, present all conditions respectively provided for them in Section 16(b) and (c) of Republic Act No. 602; and 3) a controversy concerning the legal working day or compensation for overtime work, present in either case the conditions mentioned in Sections 1, 3, and 4 of Commonwealth Act No. 444.

Thus, the exceptions to the policy or free enterprise in labor-management relations recognized in Section 7 of the Industrial Peace Act are not the only types of cases within the jurisdiction of the Court of Industrial Relations. To be sure, they are the only types of cases involving bargainable matters over which the Court of Industrial Relations still exercises compulsory arbitration. But, certainly, they are not the only types of cases within the jurisdictional competence of the Court of Industrial Relations. There are many more.

The second objection to the holding of the Court in the four 1966 cases mentioned above deals with its requirement of employer-employee relationship between the parties or, when this condition is absent, that a claim for reinstatement is made. Here, again, is a requirement that is difficult to reconcile with the provisions of Section 2(j), in relation to Section 9 (f)(1) and (2), all of the Industrial Peace Act. If this requirement of the Court is a correct reading of the law, there ought to be some specific legal provisions in support thereof. I have tried to search for them but there doesn't seem to be any. On the contrary, Section 2(j) of the Industrial Peace Act, in

defining a "labor dispute" (which is the stuff of which the three classes of cases enumerated by the Supreme Court in the PAFLU case is made of), explicitly provides that the relation of employer and employee is immaterial to the existence of a labor dispute. There is practical wisdom in this labor policy. It closes the door through which unscrupulous employers have theretofore escaped their responsibility. Moreover, a labor dispute may exist between parties who are not in the proximate relation of employer and employee. Furthermore, the term "employee" as defined in Section 2(d) of the Industrial Peace Act does not exclusively refer to the employees of a particular employer for the simple reason that under modern business conditions and industrial relations, employees are brought into economic as well as legal relationship with management people who are not their own employers.[31]

I might mention here that in the *Draft Administrative Code of the Philippines,* which the U.P. Law Center prepared for the President of the Philippines, by virtue of Executive Order No. 14, Series of 1966, the outlines of the jurisdiction of the Court of Industrial Relations are given in clear and unequivocal terms in order to do away, once and for all, with the recurring problem of the scope of the jurisdiction of the Court of Industrial Relations.

VII. JURISDICTION UNDER EXISTING LEGISLATION

The Court of Industrial Relations has the power to hear and decide cases under Commonwealth Act No. 103 (Court of Industrial Relations Act), Commonwealth Act No. 358 (Government Seizure of Public Utilities and Business Act), Commonwealth Act No. 444 (Eight-Hour Labor Law), Republic Act No. 602 (Minimum Wage Law), Republic Act No. 875 (Industrial Peace Act), and Republic Act No. 1052, as amended (Termination Pay Law).

In 1966, the cases involving the jurisdiction of the Court of Industrial Relations that reached the Supreme Court were those dealing with Commonwealth Acts Nos. 103 and 444, and Republic Acts Nos. 875 and 1052.

A. Jurisdiction Under Commonwealth Act No. 103

Under Section 17 of this enactment, the Court of Industrial Relations is empowered to: 1) reconcile and induce the parties to settle their disputes by amicable agreement, 2) modify, set aside or reopen its award, order or decision, and 3) interpret, implement and enforce its award, order or decision. Note that under its second

[31] U.S. Senate Comittee on Education and Labor, Report No. 573, 74th Congress, 1st Session, 6-7 (1935).

authority, the Court of Industrial Relations is empowered to: 1) modify, in whole or in part, its awards, orders or decisions, 2) set aside, in whole or in part, its awards, orders or decisions, and 3) re-open, in whole or in part, any question involved in its awards, orders or decisions. In the case of *Philippine Association of Free Labor Unions v. Secretary of Labor*,[32] the Supreme Court, in an opinion by then Justice (now Chief Justice) Concepcion, ruled that these three proceedings fall within the jurisdiction of the Court of Industrial Relations.

But in connection with the jurisdiction of the Court of Industrial Relations to modify, that is to say, amend or alter, its awards, orders or decisions, it should be noted that the Supreme Court, speaking through Justice Roberto Regala, in the case of *Manila Cordage Company v. Vibar*,[33] made contrasting statements of the law on the matter and an incomplete statement of the conditions for the exercise of this jurisdiction of the Court of Industrial Relations.

One of the issues raised in this case is whether the Court of Industrial Relations has the power to modify a return-to-work order which had become final and executory. In disposing of this question, the Supreme Court held that matters previously passed upon by the Court of Industrial Relations can no longer be amended or altered after the award, order or decision has become final. This is fine but, in the very next paragraph, the Supreme Court, in tracing the source of the authority of the Court of Industrial Relations, slipped when it said that:

> "This power is derived from Sections 7 & 17 of Commonwealth Act No. 103 empowering the court to modify its decisions, orders and awards even after their finality."

Obviously, the last clause of this statement must be disregarded.

In the *Manila Cordage* case, the Supreme Court also stated that the authority of the Court of Industrial Relations to modify its award, order or decision may be exercised only upon grounds coming into existence after the rendition of the award, order or decision. But there are other conditions. In the 1951 case of *Pepsi Cola Bottling Co. v. Philippine Labor Organization*[34] and in the 1962 case of *San Pablo Oil Factory Inc. v. Court of Industrial Relations*,[35] the Supreme Court carefully detailed these conditions. First, the petition to modify an award, order or decision must be filed during the effectiveness of the award, order or decision and upon due notice and hear-

[32] G.R. No. 21321, April 29, 1966.
[33] G.R. No. 21663, March 31, 1966.
[34] 88 Phil. 147 (1951).
[35] G.R. No. 18270, Nov. 28, 1962.

ing.[36] In this connection, an award, order or decision is deemed to be effective for a period of at least three years from the date of such award, order or decision, unless a shorter or longer period is fixed therein by the Court of Industrial Relations. Second, the petition must be based only upon grounds coming into existence after the order, award or decision was issued by the Court of Industrial Relations and only upon grounds which have been directly or indirectly litigated before and decided by the Court or available to the parties in the prior proceedings but not used by any of them.[37] Three, the petition must be identical or related to the original or main case.[38] And, fourth, the relief sought must not affect the period which has already elapsed at the time the order, award or decision to be modified was issued.[39] I think all these conditions still stand. It is very doubtful that the Supreme Court intended to do away with these conditions, except the second, in its decision in the *Manila Cordage* case.

B. Jurisdiction Under Commonwealth Act No. 444

Under the Eight-Hour Labor Law, there are two types of cases which fall within the jurisdictional competence of the Court of Industrial Relations, namely, cases involving hours of work and cases involving compensation for overtime work.

During the year in review, only the question of jurisdiction of the Court of Industrial Relations in the second type of cases reached the Supreme Court. In the case of *Red V Coconut Products, Ltd. v. Court of Industrial Relations*,[40] the Supreme Court, in an opinion by Justice Jose P. Bengzon, upheld the jurisdiction of the Court of Industrial Relations over cases involving the ascertainment of the amount of compensation for overtime work. This is distinguished from cases involving collection of overtime pay that has remained unpaid, which belongs to the regular courts.

In the subsequent case of *Justo v. Court of Industrial Relations*,[41] the Supreme Court, speaking also through Justice Bengzon, ruled that the exercise of the authority of the Court of Industrial Relations over this type of cases depends on the existence of an employer-employee relationship or in its absence, on a petition for reinstate-

[36] Section 17, Com. Act No. 103 (1936).
[37] Pepsi-Cola Bottling Co. v. Philippine Labor Organization, 88 Phil. 147 (1951); San Pablo Oil Factory v. Court of Industrial Relations, G.R. No. 18270. Nov. 28, 1962.
[38] Northwest Airlines, Inc. v. Northwest Airlines Philippine Employees Association, G.R. No. 17378, April 30, 1962.
[39] Nahag v. Roldan, 94 Phil. 88 (1953).
[40] G.R. No. 21348, June 30, 1966.
[41] G.R. No. 22173, July 7, 1966.

ment. On the same grounds mentioned above, along about the latter part of the discussion of the problem of the scope of jurisdiction of the Court of Industrial Relations, a similar decision promulgated in 1962 in the case of *Campos v. Manila Railroad Company*[42] was criticized at the Third Annual Institute on Labor Relations Law. There is no point in repeating them here.

C. JURISDICTION UNDER REPUBLIC ACT No. 875

1. Over Cases Involving Labor Injunctions

There is need to distinguish between a labor injunction from a civil injunction. Different rules apply. The former is covered by the provisions of Section 9(d) of the Industrial Peace Act while the latter is subject to the provisions of Rule 58 of the Revised Rules of Court.

In the case of *Republic Flour Mills Workers Association v. Reyes*,[43] the Supreme Court, in an opinion by Justice Calixto O. Zaldivar, declared that a labor injunction, whether temporary or permanent, may be issued in all cases involving or growing out of a labor dispute otherwise the provisions of Rule 58 of the Revised Rules of Court apply and the injunction may be issued by a regular court.

I am afraid this is an oversimplification of the injunction provisions contained in Section 9 of the Industrial Peace Act. Subsection (d) of Section 9 recognizes one situation where an injunction may not be issued even when the case involves or grows out of a labor dispute. This lone exception must be placed in sharp focus whenever the injunction provisions of Section 9 of the Industrial Peace Act is involved.

At the Third Annual Institute on Labor Relations Law, I mentioned that the key to the proper treatment of injunctive relief in labor cases lies in the relationship existing between Section 9(a) and Section 9(d) of the Industrial Peace Act. Section 9(a) provides that no court, commission, or board of the Philippines shall have jurisdiction, except as provided in Section 10 of the Act, to issue any restraining order, temporary or permanent injunction in any case involving or growing out of a labor dispute to prohibit any person or persons participating or interested in such dispute from doing, whether singly or in concert, any of the nine activities therein enumerated. The explanation to this public policy lies in the fact that the activities enumerated in Section 9(a) are all *lawfull* activities. Thus, the Industrial Peace Act leaves the parties to resolve their

[42] G.R. No. 17905, May 25, 1962.
[43] G.R. No. 21378, Nov. 20, 1966.

differences among themselves rather than allow governmental intervention in the form of a labor injunction. But note that the prohibition against the issuance of labor injunctions in the cases enumerated in Section 9(a) applies only to cases involving or growing out of a labor dispute, as this concept is defined in Section 9(f)(1) in relation to Section 2(j) of the Industrial Peace Act. On the other hand, Section 9(d) of the Industrial Peace Act does not bar a labor injunction even if a case involves or grows out of a labor dispute. The explanation to this public policy lies in the fact that the acts involved in the labor dispute are *unlawful* activities. But note, too, that even in this situation, Section 9(d) still exacts several conditions before a labor injunction may be issued.

Thus, a line is drawn by the Industrial Peace Act between labor disputes involving *lawful* and therefore protected activities from labor disputes involving *unlawful* and hence unprotected activities.

2. Over Cases Involving Interpretation or Enforcement of Collective Bargaining Contracts

Has the Court of Industrial Relations exclusive jurisdiction over this class of cases or not? Here again is an area where the Supreme Court cannot seem to firm up its stand. It's bewildering how the Supreme Court has confronted this issue over the last 12 years.

(a) Review of Decisions of Supreme Court

Perhaps the best way to analyze the latest decisions of the Supreme Court in the case of *Nasipit Labor Union v. Court of Industrial Relations*[44] is to back up clear to the first case where the Supreme Court first encountered the problem, after the enactment of Republic Act No. 875.

In the 1954 case of *Pambujan Sur United Mine Workers v. Samar Mining Co., Inc.*[45] the question squarely presented to the Supreme Court was whether the Court of Industrial Relations has authority to hear and decide cases involving the interpretation or enforcement of collective bargaining contracts and, if it has, whether the jurisdiction of such court is exclusive or merely concurrent. The Supreme Court, speaking through Chief Justice Cesar Bengzon, ruled that the Court of Industrial Relations has exclusive jurisdiction over this type of cases.

In 1957, the Supreme Court, in an opinion by Justice Pastor Endencia in the case of *Dee Cho Lumber Workers Union v. Dee Cho*

[44] G.R. No. 17838, Aug. 3, 1966.
[45] 94 Phil. 932 (1954).

Lumber Co.,[46] overruled the *Pambujan* decision and declared that the Court of Industrial Relations has no jurisdiction at all over this type of cases even though they may involve a labor dispute. The Court reasoned that the enforcement of a collective bargaining contract is not among the four types of cases specified in the case of *Philippine Association of Free Labor Unions v. Tan.*[47]

In 1959, in the case of *Benguet Consolidated Mining Co. v. Coto Labor Union*,[48] the Supreme Court turned back on its decision in the 1957 *Dee Cho Lumber* case and ruled that the Court of Industrial Relations has indeed exclusive jurisdiction over this type of cases. But scarcely five months later, the Supreme Court changed its mind again in the case of *Philippine Sugar Institute v. Court of Industrial Relations*,[49] overruled the decision in the *Benguet Consolidated Company* case and held that the Court of Industrial Relations cannot take cognizance of cases involving enforcement of collective bargaining contracts.

A year later, in the case of *Elizalde Paint and Oil Company, Inc. v. Jose S. Bautista*[50] the Supreme Court, in an opinion by Justice Felix Bautista Angelo, switched position once more and held that the Court of Industrial Relations has jurisdiction over this type of cases but laid down one condition, that the subject matter involved in the enforcement of a collective bargaining contract must refer to any of the four types of cases enumerated in the case of *Philippine Association of Free Labor Union v. Tan*,[51] namely, labor disputes in industries indispensable to the national interest certified as such by the President to the Court of Industrial Relations, claims for minimum wages, claims involving hours of work, and complaints involving unfair labor practices. Of course, this approach is understandable considering that this has been Justice Bautista Angelo's pet theory.

But in 1964, something very unusual happened to this problem. In the case of *Manila Electric Company v. Ortañez*,[52] the Supreme Court, in an opinion by Justice Alejo Labrador, removed the condition placed in the *Elizalde Paint and Oil Company* case and held that the Court of Industrial Relations has jurisdiction over cases involving the interpretation or enforcement of collective bargaining contracts only if they were entered into by the parties under the

[46] G.R. No. 10080, April 30, 1957; 55 O.G. 434 (Jan., 1959).
[47] G.R. No. 9115, Aug. 31, 1956; 52 O.G. 5836 (Oct., 1956).
[48] G.R. No. 12394, May 29, 1959.
[49] G.R. No. 13098, Oct. 29, 1959; 57 O.G. 635 (Jan., 1961).
[50] G.R. No. 15904, Nov. 23, 1960; 61 O.G. 137 (Jan., 1965).
[51] See note 47, *supra*.
[52] G.R. No. 19557, March 31, 1964.

supervision of the Court of Industrial Relations or that the collective bargaining contracts involve discrimination amounting to an unfair labor practice. Now, the first condition advanced by the Supreme Court in the *Manila Electric Company* case is very surprising! The public policy upon which the Industrial Peace Act is based shields the entire collective bargaining process from all governmental intervention, except only in the three instances expressly enumerated in Section 7 of the Industrial Peace Act. Perhaps this condition advanced by Justice Labrador proved too much for the Court itself that, soon thereafter, the Supreme Court, speaking this time through Justice Roberto Regala, in the case of *National Mines and Allied Worker's Union v. Philippine Iron Mines, Inc.*,[53] rejected the condition introduced by Justice Labrador and reiterated the condition advanced by Justice Bautista Angelo in the 1960 *Elizalde Paint and Oil Factory* case, that the Court of Industrial Relations has jurisdiction to enforce or apply collective bargaining contracts only if the subject matter of the labor contract involves any of the four types of cases enumerated in the case of *Philippine Association of Free Labor Union v. Tan.*[54]

This is the way things stood when the Supreme Court faced the problem anew in 1966 in the case of *Nasipit Labor Union v. Court of Industrial Relations.*[55] Justice Fred Ruiz Castro, who wrote the decision for the Supreme Court, wasted no time in holding that the Court of Industrial Relations has no jurisdiction at all over cases involving the interpretation or enforcement of collective bargaining contracts on the ground that this type of cases is not among those mentioned in the case of *Philippine Association of Free Labor Union v. Tan.*[56] In different words, the Supreme Court is now back to its position expressed in the 1957 *Dee Cho Lumber Workers Union* case and the 1959 *Philippine Sugar Institute* case.

(b) Basis of Jurisdiction of the Court of Industrial Relations

Is the Court of Industrial Relations really without authority over this type of cases?

There is no point in repeating here the fact that the types of cases enumerated in the *Philippine Association of Free Labor Union* case refers only to labor disputes which the Court of Industrial Relations can still compulsorily arbitrate and that there are other cases within the jurisdiction of the Court of Industrial Relations.

---

[53] G.R. No. 19372, Oct. 31, 1964.
[54] See note 47, *supra.*
[55] G.R. No. 17838, Aug. 3, 1966.
[56] See note 47, *supra.*

What then is the basis of the authority of the Court of Industrial Relations over cases involving the interpretation or enforcement of collective bargaining contracts? I think it is found in the provisions of Sections 13 and 16 of the Industrial Peace Act, on the condition that the action is for the vindication of the rights or the performance of the obligations of the parties to the collective bargaining contract. Of course, this is subject to the exhaustion of inter-party remedies if any, *e.g.*, the failure of the grievance machinery established in the collective bargaining agreement. As stated in the case of *Smith v. Evening News Association*,[57] the rights and obligations of employers and employees concerning the matters contained in the collective bargaining contracts are a "major focus of the grievances and administration of collective bargaining and to a large degree inevitably intertwined with union interest and many times precipitate grave questions concerning the interpretation and enforcement of collective bargaining contracts in which they are based."

Obviously, violations of collective bargaining contracts involve the administration and handling of grievances. Under Section 13 of the Industrial Peace Act the duty to bargain collectively includes also the obligation to "meet and confer promptly and expeditiously and in good faith for the purpose of adjusting any grievances or questions arising under such agreement." And, under Section 16 of the Industrial Peace Act, the grievances or questions that may be adjusted by collective bargaining include issues arising from the interpretation or application of collective bargaining contracts.[58] Even Sections 4(a)(6) and 4(b)(3) of the Industrial Peace Act are involved here when either party fails to adjust, without reason, any grievance or question arising under a collective bargaining agreement because this is refusal to bargain collectively. Obviously, the logical court to settle the problem is the Court of Industrial Relations.

3. Over Cases Certified to the Court by the President

(a) Nature of Jurisdiction

In the case of *Feati University v. Feati University Faculty Club*,[59] the Supreme Court, in an opinion by Justice Calixto O. Zaldivar, held that the Court of Industrial Relations acquires exclusive jurisdiction over a case certified to it by the President of the Philippines and the court may exercise its broad powers of arbitration as provided in Commonwealth Act 103.[60] This means that the Court of

[57] 371 U.S. 195, 9 L.Ed. 2d 246, 83 S.Ct. 267 (1962).
[58] C. PASCUAL, LABOR AND TENANCY RELATIONS LAW 381 (3rd ed., 1966).
[59] G.R. Nos. 21278, 21462 and 21500, Dec. 27, 1966.
[60] Citing Rizal Cement Co., Inc. v. Rizal Cement Workers Union, G.R. No. 12747, July 30, 1960.

Industrial Relations may consider all aspects of the labor dispute and issue such orders which may be necessary to make its jurisdiction under Section 10 of the Industrial Peace Act effective.

(b) Certification of Labor Dispute by the President

In the case of *Feati University v. Feati University Faculty Club*,[61] the President of the Philippines certified the labor dispute existing between the parties to the Court of Industrial Relations. Feati University moved for the dismissal of the case on the ground that the Court of Industrial Relations did not acquire jurisdiction over the case because the presidential certification violated Section 10 of the Industrial Peace Act. Feati University argued that the power of the President of the Philippines to certify a case to the Court of Industrial Relations depends on the existence of a labor dispute in an industry that is vital to the national interest and concluded that since this condition was not fully met, then the presidential certification has no legal basis and the return-to-work and stop-lockout orders previously issued by the lower court is improper.

In an opinion by Justice Zaldivar, the Supreme Court dismissed the contention of Feati University on the ground that the certification of a labor dispute to the Court of Industrial Relations is a prerogative vested alone on the President of the Philippines, pursuant to Section 10 of the Industrial Peace Act. The Supreme Court felt that it cannot interfere in, let alone curtail, the exercise of that prerogative and, quoting from *Pampanga Sugar Development Co. v. Court of Industrial Relations*,[62] stated that a case certified by the President of the Philippines to the Court of Industrial Relations may not be refused on the assumption that the certification is erroneous and that the court has no alternative but to hear and decide the case. Continuing the Court ruled:

> "It is not for the Court of Industrial Relations nor this Court to pass upon the correctness of the reasons of the President of the Philippines in certifying a labor dispute to the Court of Industrial Relations."

There is no question that under present policy there is no court in the Philippines that can interfere with or curtail the power of the President of the Philippines to certify a labor dispute to the Court of Industrial Relations. It is possible that he may refuse to certify a case to the Court of Industrial Relations although a labor dispute exists in fact in an industry vital to the national interest. It is possible too that he may certify a case even if there is in fact

[61] See note 59, *supra*.
[62] G.R. No. 13178, March 25, 1961.

no labor dispute existing in an industry indispensable to the national interest. No one can prevent or require the President to exercise his power under Section 10 of the Industrial Peace Act. Unless the policy is changed, no court can really interfere in, let alone curtail, the exercise of this presidential power.

But it is an entirely different thing when it comes to the conditions which the law itself imposes for the exercise of the jurisdiction of the Court of Industrial Relations over a case certified to it by the President of the Philippines. Section 10 provides as follows:

> *Labor Disputes in Industries Indispensable to the National Interest.* — When in the opinion of the President of the Philippines there exists a labor dispute in an industry indispensable to the national interest and when such labor dispute is certified by the President to the Court of Industrial Relations, said Court may cause to be issued a restraining order forbidding the employees to strike or the employer to lockout the employees, pending an investigation by the Court, and if no other solution to the dispute is found, the Court may issue an order fixing the terms and conditions of employment.

Once a labor dispute is certified by the President of the Philippines to the Court of Industrial Relations the law requires it to investigate the case. It may, during the pendency of the case, issue an injunction prohibiting a strike or lockout, and if no other solution to the labor dispute is found, the Court of Industrial Relations may exercise its power of compulsory arbitration and fix for the parties the terms and conditions of employment.

There are two basic questions which the law requires the Court of Industrial Relations to investigate after assuming jurisdiction over a case certified to it by the President: 1) whether or not a labor dispute exists in an industry, and 2) whether or not the said industry is indispensable to the national interest. Incidentally, the Supreme Court, in the Feati University case, after strongly declaring or affirming that it is not for the courts to pass upon the correctness of the reasons of the President in certifying a labor dispute to the Court of Industrial Relations did exactly that in so far as the issue of whether or not there was a labor dispute existing between the parties. On this issue the Supreme Court concluded that there was a labor dispute under Section 2(j) of the Industrial Peace Act.

The first question is not a difficult problem to resolve. As the Supreme Court correctly ruled in the *Feati University* cases, the test of whether a controversy is a labor dispute depends on whether it involves terms, tenure or condition of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of

employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

But the second question is fraught with difficulties. What is meant by an "industry indispensable to the national interest?" Must the strike or lockout involved in the labor dispute certified by the President of the Philippines to the Court of Industrial Relations be one which imperils the national welfare or safety? Will it suffice if the strike or lockout results in public inconvenience? The answers are obvious. The strike or lockout must be a hazard to the vital functions of the state requiring swift governmental intervention. I cannot overemphasize the fact that under Section 10 of the Industrial Peace Act a strike or lockout is either one endangering the nation's welfare or safety which puts it within the area of swift governmental intervention or it is not in which case the labor dispute is basically subject to collective bargaining.

Thus, if the two basic conditions are present in a case certified by the President to the Court of Industrial Relations, then the court may continue the restraining order forbidding the employees to strike or the employer to lockout his employees and, as provided by law, compulsorily arbitrate the issues and set or fix for the parties the terms and conditions of employment, whether they like it or not, when the Court of Industrial Relations finds no other solution to the labor dispute. Obviously, if these basic conditions are not present, then the Court of Industrial Relations has no power to continue the effectivity of its preliminary restraining order let alone proceed with the compulsory arbitration of the other issues involved in the labor dispute. If you ask why, the answer is simple. In addition to that mentioned in the next preceeding paragraph, the Industrial Peace Act is grounded on the principle of free enterprise for capital and labor through the process of collective bargaining.[63] Even the power of the Court of Industrial Relations to compulsorily arbitrate the terms and conditions of employment depends on the utter lack of any other solution to the labor dispute.

Let us analyze what the Supreme Court did in the *Feati University* cases in the light of the public policies expressed in Sections 7 and 10 of the Industrial Peace Act.

(1) Was there a labor dispute in the private educational industry or not?

There is no doubt that there was a labor dispute existing between the parties. The question, however, is whether the labor dispute

[63] Section 7, Rep. Act No. 875 (1953).

occurred in the private educational industry or a substantial portion of that industry. As the Supreme Court itself found there was only one private school involved in the labor dispute with some 18,000 students and 500 faculty members. A conservative estimate of the private educational institutions in the heart of Manila alone is about 20 with a student population in the neighborhood of 500,000 and about 8,000 teachers.

(2) Is the private educational industry indispensable to the national interest?

Was the strike involved in the labor dispute a hazard to the vital functions of the state? Or did it result merely in inconvenience to a portion of the public?

Unless there is a finding of public hazard, a labor dispute notwithstanding its certification by the President of the Philippines to the Court of Industrial Relations is still subject to the policy of settlement of issues respecting terms and conditions of employment through the procedure of collective bargaining.[64] But the Supreme Court did not tackle this problem.

4. Over Cases Involving Rights and Conditions of Union Membership.

In the case of *Philippine Association of Free Labor Unions v. Secretary of Labor*,[65] the Supreme Court, speaking through then Justice (now Chief Justice) Roberto Concepcion, held that cases involving any of the 12 internal labor organization procedures enumerated in Section 17 of the Industrial Peace Act are cognizable by the Court of Industrial Relations. Although the Supreme Court did not state the nature of this jurisdiction of the Court of Industrial Relations, it has already ruled in several cases,[66] that the jurisdiction of the Court of Industrial Relations under Section 17 of the Industrial Peace Act is exclusive in nature.

Section 17 of the Industrial Peace Act requires that the intra-union remedies provided in the constitution or by-laws of the labor organization should first be exhausted before reporting any violations of the internal labor organization procedures to the Court of Industrial Relations. It is also provided in said section that a minimum of 10% of the members of a labor organization may file a complaint in the Court of Industrial Relations. Whether this requirement ap-

[64] Section 1(b), 7, and 10, Rep. Act No. 875 (1953).
[65] G.R. No. 21321, April 29, 1966.
[66] Philippine Association of Free Labor Union v. Padilla, G.R. No. 11722, Nov. 28, 1959; Philippine Land-Air-Sea Labor Union v. Ortiz, G.R. No. 11185, April 23, 1958, 55 O.G. 9207 (Nov., 1959). Kapisanan ng mga Manggagawa sa Manila Railroad Company v. Bugay, G.R. No. 9327, March 30, 1957, 54 O.G. 8622 (Dec., 1958).

plies also to internal labor organization procedures which are personal to union members may well become another problem area for the Supreme Court. Suffice it to say for the present that the Supreme Court has already expressed itself on this matter in contrasting ways. This particular problem was not involved in any of the labor law decisions of the Supreme Court in 1966.

D. Jurisdiction Under Republic Act No. 1052

There is need to distinguish between claims for underpayment or differential pay from claims for minimum wages about the statutory minimum, from claims for minimum wages above the wage-order minimum, and from claims for separation or termination pay.

With regards to claims for underpayment or differential pay, the provision of Section 16(a) of the Minimum Wage Law is decisive, as held in the case of *Valleson, Inc. v. Tiburcio.*[67] Section 16(a) of Republic Act No. 602 provides that action to recover underpayment or differential pay may be brought in any competent court. Therefore, depending on the amount involved in a claim for differential pay, the suit may be brought either in the Municipal Court or in the Court of First Instance.[68]

Claims for minimum wages above the statutory minimum and claims for minimum wages above the wage-order minimum is cognizable by the Court of Industrial Relations, as provided in Section 16(b) of the Minimum Wage Law, Republic Act No. 602.

In the case of claims involving separation or termination pay, the jurisdiction of the Court of Industrial Relations is based on the provision of Section 9(f)(1) in relation to Section 2(j), both of the Industrial Peace Act. However, the proviso tucked to Section 2(j) has been disregarded by the Supreme Court in a long line of cases, starting with the 1957 case of *Aguilar v. Salumbidez*[69] down to the 1966 case of *Justo v. Court of Industrial Relations.*[70] In all these cases the Supreme Court has ruled that the jurisdiction of the Court of Industrial Relations over claims for separation pay depends on the existence of the employer-employee relationship or, when this is lacking. on a petition for re-employment included in the complaint. This condition has been discussed earlier in this survey.

In the 1966 cases of *Philippine Refining Co., Inc. v. Rodolfo Garcia* and *Garcia v. Philippine Refining Co., Inc.*,[71] the Supreme Court

---

[67] G.R. No. 18185, Sept. 28, 1962.

[68] Danting v. Manila Railroad Company, G.R. No. 16920, Sept. 29, 1962 and Gallardo v. Manila Railroad Company, G.R. No. 16919, Sept. 29, 1962.

[69] G.R. No. 10124, Dec. 28, 1957.

[70] G.R. No. 22173, July 7, 1966.

[71] G.R. No. 21871, Sept. 27, 1966.

clarified the tricky provision of Section 1 of the Termination Pay Law, Republic Act No. 1052, as amended by Republic Act No. 1787. According to Justice Jose B. L. Reyes, who wrote the decision, this provision impliedly recognizes the right of an employer to dismiss his employees without the need of disbursing separation pay under the following conditions: 1) when the employment is for an indefinite period, and 2) when the termination of employment is for a just cause or if this is absent there is a timely written notice of termination of employment.

This is a reiteration of the rule on the same matter expressed in the 1963 case of *Employees and Laborers Cooperative Association v. National Union of Restaurant Workers.*[72] There the Supreme Court, speaking also through Justice Jose B. L. Reyes, stated that if the employer fails to serve due notice, then and only then is the employer obligated to disburse separation or termination pay. Put differently, it is not the *cause* for the dismissal but the employer's failure to serve notice on the employee in dismissing him without cause that renders the employer answerable for terminal or separation pay.

VIII. NON-PROFIT INSTITUTIONS OR ORGANIZATIONS

Since the promulgation of the 8-to-3 decision in *Boy Scouts of the Philippines v. Araos,*[73] it has been the standard ploy of non-stock, non-profit institutions or enterprises brought before the Court of Industrial Relations to refuse to submit to its jurisdiction. In the *Araos* case, the majority, in an opinion by Justice Felix Bautista Angelo, declared that the labor legislation in the Philippines applies only to industrial organizations and entities which are created and operated for profit or gain.

In the 1966 case of *Casino Español de Manila v. Court of Industrial Relations,*[74] the petitioner predictably moved for the dismissal of the case on the ground that the Court of Industrial Relations had no jurisdiction over it because it is a non-stock corporation and that it was not organized for profit or pecuniary gain but for the promotion of closer relationship among its members and development of their interests and recreation.

In sustaining the lower court, the Supreme Court, in an opinion by Justice Barrera, stated that the petitioner's contention is a misreading of its decisions, from the *Araos* case down. The Court pointed out that the *ratio decidendi* of the cases cited by the petitioner is

[72] G.R. No. 18697, Feb. 28 1963.
[73] G.R. No. 10091, Jan. 29, 1958.
[74] G.R. No. 18159, Dec. 17, 1966.

based on the fact that the objectives of the institutions or organizations involved in those cases were all for "elevated and lofty purposes", such as charitable work, social service, education and instruction, hospitalization and medical services, and the promotion of civic consciousness, character and patriotism. The Supreme Court felt that while the Casino Español de Manila is a non-stock, non-profit organization, nevertheless its purposes are not in the same class with the objectives of the organizations and institutions involved in the cases which it had cited. The purpose for which the Casino Español de Manila was established is to provide service, comfort and benefit only to its members and their guests and not for benevolent, educational, medical, charitable, and patriotic purposes. The Supreme Court held that the fact that an organization or an enterprise is non-stock and non-profit cannot, standing alone, deprive the Court of Industrial Relations of its jurisdiction.

IX. EMPLOYEES

A. Seasonal Workers

Assume that an employer engaged in seasonal operations enters into a closed shop arrangement with a union of which a majority of his employees are members. Are his employees, both union and non-union members, considered as regular employees or are they all job applicants everytime he opens his seasonal operations? Are the non-union seasonal workers required to join the bargaining labor union to get their jobs back?

Speaking through Justice J. B. L. Reyes, in the case of *Industrial-Commercial-Agricultural Workers Organization v. Court of Industrial Relations*,[75] the Supreme Court reiterated its 1963 decision in *Manila Hotel Co. v. Court of Industrial Relations*[76] that seasonal workers are considered regular employees who should be recalled to their respective jobs at the start of the employer's seasonal activity and that non-union members need not join the bargaining union to get their jobs back. In justifying its decision that all seasonal workers are considered regular employees, the Supreme Court reasoned that their employment relationship is not severed but only suspended during off season and as such are to be considered on leave of absence without pay.

This decision of the Supreme Court is vulnerable from two sides. First, it fails to take into account the possibility that the seasonal activity of the employer may not really be periodic or recurrent

[75] G.R. No. 21465, March 31, 1966.
[76] G.R. No. 18873, Sept. 30, 1963.

in the sense that while the seasons are indeed regular the business operations or activities of the employer which depends on the seasons may not. This certainly has a bearing on the issue of whether or not seasonal workers are to be considered regular employees. Second, the decision of the Court that non-union seasonal workers need not join the bargaining union to get their jobs back fails to relate the issue fully with the abiding principles governing the validity and scope of the closed shop arrangement that is authorized in Section 4(a)(4) of the Industrial Peace Act.

The first deficiency was rectified in the resolution on the motion for reconsideration filed by respondent Central Azucarera de Pilar. The respondent company contended that the seasonal character of its milling activities is such that each milling season is a complete employment term and, therefore, the employment of the seasonal workers are to be considered terminated after the end of each milling season. In denying the motion for reconsideration on August 23, 1966, Justice J. B. L. Reyes, who wrote the opinion for the Supreme Court, said:

> The *cessation* of the Central's milling activities *at the end of the season is certainly not permanent or definitive;* it is foreseeable suspension of work, and both Central and laborers have *reason to expect that such activities will be resumed,* as they are in fact resumed, when sugar cane ripe for milling is again available. There is, therefore, merely a temporary cessation of the manufacturing process due to passing shortage of raw material that by itself alone is not sufficient, in the absence of other justified reasons, to sever the employment or labor relationship between the parties since the shortage is not permanent. The proof of this assertion is the undenied fact that many of the petitioner members of the ICAWO Union have been laboring for the Central, and *reengaged for many seasons without interruption. Nor does the Central interrupt completely its operations in the interval between milling seasons;* the office and sales force are maintained precisely because operations are to be later resumed. (Emphasis supplied)

In view of this clarification, the rule enunciated by the Supreme Court on this matter is that seasonal workers are regular employees if the seasonal operation of their employer has been regular and uninterrupted.

The second deficiency is discouraging in view of the conclusion of the Court that the seasonal workers of more or less permanent or definitive seasonal operations are not merely job applicants every time the employer opens his seasonal activities but are regular employees within the scope of the closed shop arrangement agreed upon by the employer and the bargaining union. If this is the case, then

the issue between the parties assumes a different dimension. Even if they are considered regular employees, the non-union seasonal workers would still have to join the contracting union, if they have not yet done so in the meanwhile, and remain members thereof in good standing, to return to their jobs. Unfortunately, this question was not among those remanded by the Supreme Court to the lower court for further proceedings, notwithstanding the fact that it was involved in the issue between the parties and the fact that the respondent labor organization, which had a closed shop arrangement with Central Azucarera de Pilar, was challenged as a company union. I'm afraid that the complexity of this particular issue was not handled satisfactorily.

B. Reinstatement of Employees

1. Concept

Under Section 5(c) of the Industrial Peace Act, the Court of Industrial Relations may take as one of the remedial steps in an unfair labor practice case the reinstatement of employees with or without backpay.

In the case of *Santos v. San Miguel Brewery, Inc.*[77] the Supreme Court, speaking through Justice Arsenio Dizon, defined reinstatement to mean the restoration of an employee to the position from which he was removed or separated, that is to say, the return of an employee to his former position. This is a reiteration of the rule expressed by the Supreme Court in the 1961 case of *San Miguel Brewery, Inc. v. Santos.*[78]

This statement of the concept of reinstatement must, however, be related to the holding of the Supreme Court in the 1962 case of *Philippine American Drug Co. v. Court of Industrial Relations.*[79] There the Supreme Court, in an opinion by former Chief Justice Cesar Bengzon, ruled that the Court of Industrial Relations cannot order the restoration of a discriminatorily dismissed employee to a position which he did not previously occupy on the ground that all the law requires is the restoration of the dismissed employee to his former position.

May I add, however, that the position of the Supreme Court on this matter does not foreclose the possibility of an employer consenting to the reinstatement of a discriminatorily dismissed employee to a different or to a substantially equivalent position, *e.g.*, higher

[77] G.R. No. 20188, April 29, 1966.
[78] G.R. No. 12682, Aug. 31, 1961.
[79] G.R. No. 15162, April 18, 1962.

but not lower position. To illustrate, an employee on a temporary status at the time he was illegally discriminated against may be reinstated by the employer on a permanent basis if he agrees thereto.

2. The Remedial Step of Reinstatement With or Without Backpay

In the case of *Ferrer v. Court of Industrial Relations*,[80] the Supreme Court, through then Justice (now Chief Justice) Roberto Concepcion declared:

> "Upon the other hand, considering that the latter [respondents-employers] have been absolved from the charge of unfair labor practice, the reinstatement of the strikers must be without backpay."

This holding requires tidying up. The broad authority of the Court of Industrial Relations to take the affirmative step of reinstatement, with or without backpay, is not unlimited. Under Section 5(c) of the Industrial Peace Act, the action which the Court of Industrial Relations must take is one that will affirm or put into effect the policies of the Industrial Peace Act. There is no question about this criterion.

The opinion expressed in the cases of *Dinglasan v. National Labor Union*[81] and *United Employees Welfare Association v. Isaac Peral Bowling Alleys*,[82] which the Supreme Court cited in the 1966 *Ferrer* case, that the remedial step of reinstatement, with or without backpay, is a matter left to the discretion of the Court of Industrial Relations is an overstatement and very difficult to justify under the sole criterion provided in Section 5(c) of the Industrial Peace Act. If, on the basis of the evidence in the record, the award of backpay will not eliminate the causes of the industrial unrest or will not promote a sound and stable industrial peace between the parties, or will not minimize their differences, then quite obviously the only remedial step that the Court of Industrial Relations may take is the reinstatement of the employees who were discriminated against. As held in the case of *United Construction Workers, United Mines Workers of America v. Laburnum Construction Corp.*,[83] the provisions on award of backpay is not a general scheme for awarding full compensatory damages, nor, as held in the case of *International Union, United Automobile Aircraft and Agricultural Implement Workers of America v. Russel*,[84] are they penal in nature or a means for the adjudication of a mass tort.

---

[80] G.R. No. 24267, May 31, 1966.
[81] G.R. No. 14183, Nov. 28, 1959.
[82] G.R. No. 10327, Sept. 30, 1958, 56 O.G. 6469 (Oct., 1960).
[83] 347 U.S. 656, 98 L.Ed. 1025, 74 S.Ct. 833 (1954).
[84] 356 U.S. 634, 2 L.Ed. 2d 1030, 78 S.Ct. 932 (1958).

Furthermore, under Section 5(c) of the Industrial Peace Act it is provided that if no person named in the complaint has engaged or is engaging in any unfair labor practice then the Court of Industrial Relations shall make such findings of fact and issue an order dismissing the complaint. In a long line of cases,[85] the Supreme Court of the Philippines has correctly construed this provision to mean that when a complaint for unfair labor practice filed against an employer is dismissed or to be dismissed, then the Court of Industrial Relations has no authority to apply its broad powers of mediation and conciliation under Commonwealth Act No. 103. To order reinstatement under this circumstance would violate the spirit and intention of the Industrial Peace Act. There is simply no basis for the issuance of a remedial order of reinstatement when no unfair labor practice has been committed. There is no reason for ordering a remedy where there is no injury to be corrected.

I think the ruling of the Supreme Court in the 1966 *Ferrer* case that employees may be reinstated without backpay even though the employer has not committed any unfair labor practice is clearly not in consonance with the law. This ruling cannot be used as authority for the matter therein contained.

X. THE CLOSED SHOP ARRANGEMENT

One of the recurring problems in labor relations law in our jurisdiction deals with the nature and scope of the closed shop arrangement. This problem is the result of the contrasting positions taken by the Supreme Court. One view holds that the closed shop arrangement is applicable only to those who are employed after the execution of the closed shop arrangement and are not yet members of any labor union.[86] The other position articulated by the Supreme

[85] See note 11, *supra*.

[86] Sta. Cecilia Sawmills, Inc. v. Court of Industrial Relations, G.R. No. 19273-19274, Feb. 29, 1964; National Brewery & Allied Industries Labor Union v. San Miguel Brewery, Inc., G.R. No. 18170, Aug. 31, 1963; Big Five Products Workers Union v. Court of Industrial Relations, G.R. No. 17600, July 31, 1963; United States Lines Company v. Associated Watchmen and Security Union, G.R. No. 15508, June 29, 1963, 62 O.G. 5759 (Aug., 1966); Industrial Commercial and Agricultural Workers Organization v. Jose S. Bautista, G.R. No. 15639, April 30, 1963; Kapisanan ng mga Manggagawa ng Alak v. Hamilton Distillery Company, G.R. No. 18112, Oct. 30, 1962; Findlay Millar Company v. Philippine Land-Air-Sea Labor Union, G.R. No. 18217 and 18222, Sept. 29, 1962; Industrial-Commercial-Agricultural Workers Organization v. Central Azucarera de Pilar, G.R. No. 17422, Feb. 28, 1962; Talim Quarry Company, Inc. v. Gavino Bartola, G.R. No. 15768, April 29, 1961; 58 O.G. 8632 (Dec., 1962); Freeman Shirt Manufacturing Co., Inc. v. Court of Industrial Relations, G.R. No. 16561, Jan. 28, 1961; 61 O.G. 3107 (May, 1965); Local 7, Press & Printing Free Workers Union v. Emiliano Tabigne, G.R. No. 16093, Nov. 29, 1960; Confederated Sons of Labor v. Anakan Lumber Co., G.R. No. 12503, April 29, 1960.

Court in *Victorias Manapla Workers Organization v. Court of Industrial Relations*[87] and *Victorias Milling Company Inc. v. Victorias Manapla Workers Organization*[88] which I think is the correct view, holds that the closed shop arrangement authorized in Section 4(a)(4) of the Industrial Peace Act is applicable to all who are not members of the contracting union regardless of whether they are employees prior to the execution of the closed shop arrangement or members of other labor unions.

During the year in review, the decisions of the Supreme Court in the case of *Industrial-Commercial-Agricultural Workers' Organization v. Court of Industrial Relations*[89] and the case of *Rizal Labor Union v. Rizal Cement Co., Inc.*,[90] have continued the view limiting the scope of the closed shop arrangement authorized in Section 4(a)(4) of the Industrial Peace Act to those employed after the execution of the closed shop arrangement and are not yet union members.

Section 4(a)(4) of the Industrial Peace Act provides as follows:

> To discriminate in regard to hire or tenure of employment or any term or condition of employer to encourage or discourage membership in any labor organization: *Provided*, That nothing in this Act or in any other Act or statute of the Republic of the Philippines shall preclude an employer from making an agreement with a labor organization to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in Section twelve;

The Supreme Court is overly, if not unduly, concerned with the compulsory and discriminatory tone of the closed shop arrangement authorized in this provision. It's too bad that the anxiety of the Court has been carried to the point where closed shop arrangements agreed upon in accordance with Section 4(a)(4) of the Industrial Peace Act have been ignored. The Supreme Court reasons that Section 4(a)(4) of the Industrial Peace Act compels employees who are already members of other labor unions to disaffiliate therefrom and join the contracting majority labor union. Because of this compulsion, the Supreme Court concludes that such a shop arrangement is contrary to Section 3 of the Industrial Peace Act which gives employees the right to self-organization and to form, join or assist labor unions of their own choosing for the purpose of collective bargaining. Obviously this is an attempt by the Supreme Court to reform the proviso of Section 4(a)(4) of the Industrial Peace Act to conform to its own idea of correct public policy.

---

[87] G.R. No. 18470, Sept. 30, 1963.
[88] G.R. No. 18467, Sept. 30, 1963.
[89] G.R. No. 21465, March 31, 1966.
[90] G.R. No. 19779, July 30, 1966.

But a scrutiny of Section 4(a)(4) of the Industrial Peace Act reveals that this is exactly the thrust of the public policy. Congress wanted to experiment with the closed shop, under which an employer may agree with the duly selected representative of his employees to hire only those who are members in good standing of the contracting union. Since this experiment does not violate any constitutional standard, I feel that the Supreme Court should respect the congressional mandate. Moreover, the proviso of Section 4(a)(4) of the Industrial Peace Act is a qualification of or a restriction on the right of employees to self-organization and to form, join or assist labor organization subject only to the conditions that the closed shop arrangement has been agreed upon by the parties and that the contracting labor union has been selected or designated by a majority of the employees, pursuant to any of the methods of selection or designation provided in Section 12 of the Industrial Peace Act. The Supreme Court itself accepted this view in the case of *National Brewery and Allied Industries Labor Union of the Philippines v. San Miguel Brewery, Inc.*[91] There the Supreme Court, in an opinion by Justice Regala, held:

> The right of employees "to self-organization and to form, join or assist labor organizations of their own choosing" (Sec. 3, Republic Act No. 875) is a fundamental right *that yields only to the proviso* "that nothing in this Act or statute of the Republic of the Philippines shall preclude an employer from making an agreement with labor organization to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in Section twelve." (Sec. 4 [a] [4]).

In the closed shop arrangement allowed in Section 4(a)(4) of the Industrial Peace Act, the employer's shop is simply closed to any one who is not a member in good standing of the majority union, even though he is already a member of another labor union or employed prior to the signing of the collective bargaining contract containing a closed shop arrangement.[92] If a person wants to continue in employment he must join the bargaining labor union or else suffer dismissal.

But I agree with the safeguards introduced by Chief Justice Roberto Concepcion in his opinion for the Supreme Court in the case of *Confederated Sons of Labor v. Anakan Lumber Co.*[93] There, he correctly stated that although the closed shop arrangement has, as a matter of law [*i.e.*, by the first proviso of Section 4(a)(4) of

---

[91] G.R. No. 18170, Aug. 31, 1963.
[92] See notes 87 and 88, *supra*.
[93] G.R. No. 12503, April 29, 1960.

the Industrial Peace Act], been removed from the catalogue of unfair labor practices it is, as a matter of fact, still a discriminatory labor device and for that reason should not be enforced fully if the employees are: 1) not informed of the nature of the shop arrangement agreed upon, and 2) if it is not expressed unequivocally in the collective bargaining contract that all employees must be members in good standing of the bargaining union to keep their jobs and that failure to remain union members in good standing is a ground for dismissal. If these conditions are not expressed clearly in the collective bargaining contract, then the closed shop arrangement agreed upon can only be given a limited application, that is to say, only those employed after the execution of the collective bargaining contract who are not yet union members are required to become members in good standing of the bargaining labor union. Those on the job on or before the signing of the agreement who are already members of other labor unions are not affected. This I surmise is what Chief Justice Concepcion means by his concept of "limited closed shop".

XI. EDUCATIONAL INSTITUTIONS AND THE DUTY TO BARGAIN COLLECTIVELY

The case of *Feati University v. Feati University Faculty Club*,[94] reiterated the doctrine enunciated in the 1958 case of *Boy Scouts of the Philippines v. Araos*,[95] that the Industrial Peace Act and all other labor legislation are applicable only to organizations, establishments and entities organized for profit or pecuniary gain.

Feati University argued that it does not fall within the purview of the Industrial Peace Act because it is not an industrial establishment but an educational institution in which case it cannot be classified as an "employer" within the meaning of that term as defined in Section 2(c) of the Industrial Peace Act.

In rejecting this contention, the Supreme Court, speaking through Justice Zaldivar, held that an educational institution organized, maintained and operated for profit or pecuniary gain is considered an industrial employer and ruled that Feati University has a duty to bargain collectively with the labor union certified as the representative of its employees.

XII. VISITORIAL POWER OF THE SECRETARY OF LABOR

A. NATURE OF AUTHORITY

Section 23(e) of Republic Act No. 875, as amended by Republic

[94] G.R. Nos. 21278, 21462 and 21500, Dec. 27, 1966.
[95] G.R. No. 10091, Jan. 29, 1958.

Act No. 1941, provides as follows:

> Section 23(e), Rep. Act No. 875, as amended by Rep. Act No. 1941. Provisions of Commonwealth Act Numbered Two Hundred and thirteen providing for registration, licensing, and cancellation of registration of organizations, associations or unions of labor, as qualified and expanded by the preceding paragraphs of this Act, are hereby amended: *Provided, however,* That the Secretary of Labor or his duly authorized representative is hereby empowered to inquire, from time to time, into the financial activities of any legitimate labor organization and to examine its books of accounts and other financial records to determine compliance or non-compliance with the laws and to aid in the prosecution for any violation thereof.
>
> The Secretary of Labor shall appoint such accounts examiners as may be necessary for carrying out the purposes of this section.

In the case of *Philippine Association of Free Labor Unions v. Secretary of Labor,*[96] the Supreme Court, speaking through then Justice (now Chief Justice) Roberto Concepcion, held that the authority of the Secretary of Labor under the foregoing provision is not merely an adjunct to the authority of the Court of Industrial Relations under Section 17 of the Industrial Peace Act but involves a distinct power to inquire into and investigate the financial activities of any legitimate labor organization and to examine "its books of *accounts* and other *financial* records to determine compliance or non-compliance with the laws and to aid in the prosecution for any violation thereof.[97]

1. Purpose of Grant of Power.

In the same case, the Supreme Court held that the restoration of the visitorial power of the Secretary of Labor which he enjoyed under Commonwealth Act No. 213 before it was removed from him with the enactment of the Industrial Peace Act is a clear indication of the intention of Republic Act No. 1941 to prevent misuse of union funds by the officers.

2. Remedy in Case of Abuse of Power.

In case the Secretary of Labor abuses his authority in such a manner as to impair the rights of the labor organization and its members, the Supreme Court, in the same case, held that the remedy is to challenge the action taken by the Secretary of Labor in an appropriate proceeding.

B. EXERCISE NOT DEPENDENT ON SECTION 17 OF REP. ACT No. 875

The opening paragraph of Section 17, Republic Act No. 875 pro-

[96] G.R. No. 21321, April 29, 1966.
[97] Emphasis by the Supreme Court.

vides as follows:

> *Rights and Conditions of Membership in Labor Organizations.* — It is hereby declared to be the public policy of the Philippines to encourage the following internal labor organization procedures. A minimum of ten percent of the members of a labor organization may report an alleged violation of these procedures in their labor organization to the Court. If the Court finds, upon investigation, evidence to substantiate the alleged violation and that effort to correct the alleged violation through the procedures provided by the labor organization's constitution or by-laws have been exhausted, the Court shall dispose of the complaint as in "unfair labor practice" cases.

The section heading clearly indicates that this provision deals with the rights and conditions of membership in any labor organization. For this reason, any member of a labor organization may ask the Court of Industrial Relations to investigate any charge involving alleged violations of any of the internal labor organization procedures enumerated in said section. On the other hand, Section 23(e) of the Industrial Peace Act, as amended by Republic Act No. 1941, refers only to the authority of the Secretary of Labor or his duly authorized representative to inquire, from time to time, into the financial activities of any labor organization in order to determine compliance or non-compliance with the laws and to aid in the prosecution of any violation thereof.

Expressing itself on this point in the case of *Philippine Association of Free Labor Unions v. Secretary of Labor*,[98] the Supreme Court held that the authority of the Secretary of Labor or his duly authorized representative is different from the rights and conditions of membership in any labor organization as provided in Section 17 of the Industrial Peace Act. The exercise of such authority, according to the Supreme Court, is not therefore dependent upon the request of the members of a labor organization, let alone the requirement that such a request be based on the petition of at least 10% of the members of the labor organization.

XIII. STRIKES

A. ECONOMIC AND UNFAIR LABOR PRACTICE STRIKES

The significance of the change of characterization of an economic strike to an unfair labor practice strike lies in the liability of the employer for back wages.

There is no question as to the exemption of an employer from the payment of back wages when he reinstates his employees who have gone on an economic strike. There is no problem either as to

[98] G.R. No. 21321, April 29, 1966.

the right of employees who go on strike because of the unfair labor practices of their employer to reinstatement with back wages if this remedial step will effectuate the policy of the Industrial Peace Act.

The question is when does an economic strike become an unfair labor practice strike? The answer depends naturally on the facts involved. Take, for example, the case of a return-to-work offer made by employees who have gone on an economic strike. If the offer is conditional, then the employer does not commit an unfair labor practice under Section 4(a) of the Industrial Peace Act by refusing to reinstate them. Thus, in the cases of *Luzon Stevedoring Co., Inc. v. Court of Industrial Relations,*[99] *Luzteveco Employees Association v. Luzon Stevedoring Co., Inc.,*[100] and *Luzon Stevedoring Corporation v. Court of Industrial Relations,*[101] the Supreme Court, speaking through Justice Jose P. Bengzon, correctly ruled that the return-to-work offer made by the striking employees under "the *status quo* as directed by the Court of Industrial Relations in a previous order" is not an unconditional offer to return to work because the court order provides among other things, for the payment of a strike-duration pay. When Luzon Stevedoring Co., Inc. refused to reinstate the strikers on the basis of this return-to-work offer, the Court ruled that it did not commit any unfair labor practice under Section 4(a) of the Industrial Peace Act.

I must, however, call your attention to a very substantial change in the rule which the Supreme Court made in the appreciation of the return-to-work offer made by the economic strikers in these cases.

In 1964, the Supreme Court, speaking through Justice Querube C. Makalintal in *Consolidated Labor Association of the Philippines v. Marsman & Co., Inc.,*[102] and *Marsman & Co., Inc. v. Consolidated Labor Association of the Philippines,*[103] ruled that an economic strike becomes an unfair labor practice strike when the employer, during the strike, commits an unfair labor practice which unnecessarily prolonged the strike.

In the 1966 cases of *Luzon Stevedoring Co., Inc. v. Court of Industrial Relations,*[104] *Luzteveco Employees Association v. Luzon Stevedoring Co., Inc.,*[105] and *Luzon Stevedoring Co., Inc. v. Court of*

---

[99] G.R. No. 17411, May 19, 1966.
[100] G.R. No. 18683, May 19, 1966.
[101] G.R. No. 18683, May 19, 1966.
[102] G.R. No. 17038, July 31, 1964.
[103] G.R. No. 17057, July 31, 1964.
[104] See note 99, *supra.*
[105] See note 100, *supra.*

Industrial Relations,[106] the Supreme Court, speaking this time through Justice Jose P. Bengzon, dropped the condition incorporated in the rule enunciated in the 1964 *Marsman* cases, that an economic strike becomes an unfair labor practice strike when the employer commits an unfair labor practice which unnecessarily prolonged the strike.

Which is the better rule? I think the change adopted by the Supreme Court in the 1966 cases negates the right of an employer in an economic strike situation to secure replacements to keep his operations going. The interest of the strikers for favorable terms and conditions of employment when the offer to return to work unconditionally must be balanced with the interest of the employer to keep his plant going in an economic strike situation. The rule expressed in the 1964 cases has provided this balance, no matter how delicate it may be. The rule in the 1964 decisions is preferable for the reason that if the economic strike is not prolonged by the employer's refusal to accept the return-to-work offer of the economic strikers, then no substantial change in their respective positions has occurred to warrant a finding of payment of back wages vis-a-vis the voluntary strike of the employees for economic demands.

B. STRIKE NOTICE

If a strike is the consequence of, or is connected with, any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, then Section 14(d) of the Industrial Peace Act requires that the strike be preceded by a 30-day notice filed with the Bureau of Labor Relations. The reason behind this requirement is to clarify to all that the strike is economic in nature. But the strike notice usually filed by labor unions in this country alleges that the strike is both for economic reasons as well as the employer's unfair labor practices.

While these are very elementary matters, the Supreme Court passed upon them in *Luzon Stevedoring Corporation v. Court of Industrial Relations*,[107] *Luzteveco Employees Association v. Luzon Stevedoring Co., Inc.*,[108] *Luzon Stevedoring Corporation v. Court of Industrial Relations*,[109] and *Ferrer v. Court of Industrial Relations*.[110]

---

[106] See note 101, *supra*.
[107] See note 99, *supra*.
[108] See note 100, *supra*.
[109] See note 101, *supra*.
[110] G.R. Nos 24267 and 24268, May 31, 1966.

C. Validity of Strike and Defense of Good Faith

Good faith is the standard maneuver of labor unions in cases involving the question of validity of strikes. If the strike is generally groundless, that is to say, it is specifically prohibited by some provisions of law,[111] or is not connected with, or a consequence of, an industrial dispute,[112] then no amount of appeal to good faith will make it legal or valid. This was the holding of the Supreme Court in an opinion penned by Justice Jose P. Bengzon in the cases of *Luzon Stevedoring Corporation v. Court of Industrial Relations*,[113] *Luzteveco Employees Association v. Luzon Stevedoring Co., Inc.*,[114] and *Luzon Stevedoring Corporation v. Court of Industrial Relations*.[115]

But there is more to this ruling than meets the eye, especially after the Supreme Court cited in the 1966 cases the 1956 case of *Interwood Employees Association v. International Hardwood and Veneer Company*,[116] where the Court, through Justice Sabino Padilla, held that a strike called on the basis of unlawful, illegitimate, unjust, unreasonable, or trivial grounds, reason or motive is illegal despite protestations of good faith.

Whether a strike is legal or illegal cannot be based on the motivation of the strikers. As held in the *Interwood Employees Association* case, it would be very difficult for a court to consider this question only on the good faith of the strikers because it is subjective and thus difficult of refutation or rebuttal. But an entirely different situation arises in a case where a labor union goes on a strike because it believed in good faith that there was a violation of a prior court order or some provisions of a collective bargaining contract. In this situation there is an objective basis upon which the appeal to good faith may be checked with. Put differently, if no such violation has occurred on the basis of evidence presented during the hearing, then it cannot be said that the strike is for a trivial or groundless purpose. On the contrary, it can well be said that it was done for their mutual aid and protection, a right which is also protected by Section 3 of the Industrial Peace Act.

---

111 Section 19, Section 14(d) and Section 18, Rep. Act No. 875 (1953).
112 Section 2(1), Rep. Act No. 875 (1953).
113 See note 99, *supra*.
114 See note 100, *supra*.
115 See note 101, *supra*.
116 G.R. No. 7409, May 18, 1956, 52 O.G. 3936 (July, 1956.)