

But if there must be a change, instead of abolishing entirely the CIR, its composition, procedure and sphere of competence may be modified as follows:

(1) The CIR should not take cognizance of any labor dispute in which contractual procedures for settlement have been established by the parties, unless such procedures are not of a final character, in which case the Court may intervene only upon petition of either party after the contractual procedures have been fully exhausted;

(2) The CIR shall seek settlement of a dispute by agreement or conciliation of the parties before compulsory awards, orders or decisions are rendered;

(3) The CIR judges should be selected from persons who possess special experience and knowledge of labor questions besides the qualifications required for Supreme Court justices; and

(4) The Court or any of its judges should allow the parties to a dispute to appoint one assessor each from their respective groups to assist in the settlement or decision of the dispute, but the responsibility for any decision, order or award shall rest exclusively with the Court or the judge concerned. The assessors will serve without any compensation or allowance whatsoever from the Government.

If it is desired to reduce further the jurisdiction of the CIR, it may be allowed to take cognizance only of "legal disputes" as distinguished from "economic disputes".

What may be considered as "legal disputes" are those which arise from the application or interpretation of any law or custom or of an individual or collective contract of employment, while "economic disputes" are those that arise when the parties cannot agree as to the terms to be included in a collective agreement governing wages, hours and other conditions of employment.

RELATIONS

LEGAL FRAMEWORK FOR LABOR-CAPITAL

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The State, in pursuing its objective of promoting the temporal prosperity and peace of the people, aims to establish that legal framework within which the citizen can achieve his social and economic well-being with the maximum of individual freedom consistent with the common good. Though the index of imports and exports, the volume of capital invested and similar figures give some indication of the economic standing of a nation, the acid test is in the homes, the meals, clothing, educational opportunities and other features of the life of the individual and the family. How decently does the individual live with his family and has this been achieved without robbing him of his human dignity and freedom?

One of the characteristic features of our modern society is the fact that large numbers of the people own no property and are forced to exchange their labor of one kind of another for a wage or salary. Their economic well-being depends almost exclusively on the adequacy or inadequacy of the amount of money received for work to purchase their food, house, clothing and all the rest of the things needed.

Obviously, the terms and conditions under which labor is exchanged for money will be of very great import-

ance in the national picture. A government's success or failure in promoting the temporal prosperity and peace of the people will depend largely on the government's ability to set up legislative framework which will help the working citizen to help himself.

Communism and varieties of dictatorship solve the problem simply by a complete taking-over of the economic life of a country. Old school rugged individualists, with equal simplicity, rule the State out of any "interference" in the economic life of the country (more especially in the relations between Capital and Labor) beyond the enforcing of contracts. Neither approach is in keeping with sound principles of government and neither approach gives adequate recognition to the citizen's reasonable freedom and personal dignity. Obviously, the goal of the State will be the maximum well-being of the individual consistent with the national wealth and the common good in an atmosphere which allows the individual to live as a free person. Dictatorship errs (including the Communist type) by depriving the individual of his freedom. "Laissez Faire" or "Hands-offism" errs by a specious glorification of the freedom of the individual pretending that there is such a thing as the right of the individual to trample the rights of others or the right to harm the common good.

The State, then, which seeks to do its duty of promoting the temporal prosperity and peace of the people and yet refuses to trample on human freedom must find legislation which satisfies certain fundamental principles and recognizes certain contemporary facts.

1. The State must not restrict the freedom of the individual more than is necessary for the common good.
2. The State must not arrogate to itself functions which can be better performed by individuals or associations within the State.
3. The State must make a clear distinction between legitimately regulating the exercise of a natural right when that regulation is necessary for the common good and presuming that the State is itself the originator of that right. (For example, the State clearly

has the right to regulate the use of private property for the common good but man's right to own property is a natural right not originating in the State).

4. The State must see that no citizen or group of citizens is the victim of injustice because of agreement imposed by a stronger individual or group.

These principles must be studied and applied against a background of several factual situations in modern economic life.

1. Contracts tend to be just when they are entered into between parties who are equally free to enter or not to enter such agreements.
2. The temporal prosperity of large numbers of the people depends on their ability to exchange their labor for a sufficient amount of money to support themselves and their families in reasonable comfort.
3. The individual worker is not free and equal in relation to the Capitalists with whom he hopes to draw up an equitable agreement. (This inequality stems from the fact that the individual worker is forced to work or go hungry added to the fact that as an individual he can be easily dispensed with and replaced by another, not to mention the superior resources of Capital in money, legal talent, etc.)
4. The worker can only find equality with the owner of wealth in the present economic system by exercising his natural right to associate with his fellow-workers and negotiate the terms of his employment in collective fashion.
5. Generally speaking, even the collective form of bargaining will not make him free and equal unless he is guaranteed the freedom to refuse to work for an employer under terms which he considers unjust. That is the right to strike. (Facing a fact of modern economic life, that which can make Capital and Labor free and equal and move both to seek agreement is the fact that Capital will be free to refuse to furnish one necessary element in production, namely mo-

ney, if the terms offered by Labor are unfair, and Labor will be free to refuse to furnish another essential element of production, namely work, if the terms offered by Capital are unfair.)

The State then, will be seeking legislation which will help make Capital and Labor free and equal negotiators in entering into a freeman's contract covering terms and conditions of employment. Those interested in legislation on the matter will properly ask: What deprives the worker of his freedom and equality at present? Many things, among them the fact that, for the most part, labor is unorganized. Furthermore, labor's effort to organize are seriously hampered by the presence of Company Unions (the essence of the Company Union as understood in this discussion is control of the union by Capital in one way or another). The present system of registering unions amounts almost to putting labor's right of association in the hands of one government official. Even if the worker is properly organized his bargaining power is made almost ineffective by a legal system of "Back-to-work" or "Anti-strike" injunctions and a system of compulsory arbitration.

It is hoped that the Law Journal will present a detailed discussion of pending labor legislation in the light of these facts and principles. Certain features of the desired legislation can easily be arrived at and, in the hope of inviting more detailed discussion, it is suggested that legislation which would meet the needs of the day would necessarily:

1. Outlaw the Company Union.
2. Deprive the courts of the power to issue injunctions against strikes.
3. Leave the setting of wages to the free negotiation between Capital and Labor rather than to compulsory arbitration—and
4. Recognize the worker's right to organize as a right equal in all respects to the right of other citizens to do the same. This necessitates the removal of all arbitrary governmental power over the exercise of that right.

COMMENTS ON LEGISLATION

ACT NO. 3428

(As amended by Act 3812, Com. Act 210 & Rep. Act 772)

By PASCUAL R. BELTRAN, JR.

INTRODUCTION

Labor is on the march! One of the greatest boons to Filipino labor is the Workmen's Compensation Act, otherwise known as Act No. 3428. This law, patterned after the compensation laws of Minnesota and Hawaii, has been thrice amended since its enactment in 1927. The first two amendments, Act 3812 and Com. Act 210, did not affect the substance of the law as they were merely made for clarification purposes. The third amendment was approved by Congress during this year's session. This bill, known as Rep. Act 772 and which took effect on June 20, 1952, is a total revamp of the Workmen's Compensation Act in line with modern trends of labor.

Labor movement in the Philippines had its beginning in 1902 when workers started to unionize and agitate for increased wages and for the improvement of their working conditions. In this its half-century struggle in the country, labor finds tangible proof of well-marked progress in the recent enactment of the new Workmen's Compensation Law, considered to be the most complicated and difficult labor law to enforce. In foreign coun-