LABOR-MANAGEMENT COOPERATION IN GOVERNMENT CORPORATIONS†

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AN epitaph in an old English churchyard reads:

"Remember, friends, as you pass by;
Where you are now, so once was I;
Where I am now, thus must you be;
So be prepared, to follow me."

Somebody wrote the following lines under the above words:

"To follow you, I'm not content;
Till I find, which way you went."

Which way have labor-management relations in government corporations been headed? Towards the smooth road of peace and harmony or the rough and bumpy road of strife and discord?

The frequency of strikes in government-owned and controlled corporations has given rise to several questions: Has the government, as employer, failed in the promotion of industrial peace? Has it, as capitalist, trampled upon the rights of the working man? Has it, as industrialist, ignored the plight of the railroad engineer, the shipyard mechanic, the textile mill laborer, or the hydroelectric plant operator? A sweeping answer in the affirmative would be pointing an accusing finger at the government, unfairly and rashly.

Both management and labor in government corporations have honestly and zealously stood for and advanced their respective causes. They have used the means and the weapons recognized by law. Human nature being what it is, however, the struggles and disputes have often been marked with bitterness, recriminations, and hostility. It is a fact, however, that the areas of conflict between management and labor in government corporations have deepened and widened due to gaps and ambiguities in the law and jurisprudence.

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Section 11 of Rep. Act No. 875, otherwise known as the Industrial Peace Act, provides:

Sec. 11. **Prohibition Against Strike in the Government.** — The terms and conditions of employment in the Government, including any political subdivision or instrumentality thereof, are governed by law and it is declared to be the policy of this Act that employees therein shall not strike for the purpose of securing changes or modifications in their terms and conditions of employment. Such employees may belong to any labor organization which does not impose the obligation to strike or to join in strike: **Provided, however,** That this section shall apply only to employees employed in governmental functions of the Government including but not limited to governmental corporations."

In other words, employees in government-owned and controlled corporations performing governmental functions may not join any labor organization which imposes the obligation to strike or to join in strike. This prohibition, however, against strike does not apply to those employed in government corporations performing proprietary functions.

However, no single criterion has been established for determining which government corporations are performing governmental functions and those which are performing corporate functions.

In *Angat River Irrigation System v. Angat River Worker's Union, G.R. No. L-10943 and L-10944, Dec.* 28, 1957, the Supreme Court held that:

"x x x the Angat River Irrigation System unmistakably exercises governmental functions, not only because it falls under the direct supervision of the President of the Philippines, through the Department of Public Works in virtue of Commonwealth Act No. 87 giving the President authority to administer the irrigation system constructed by the Government pursuant to Act 2152, as amended, but also because the nature of the duties imposed on said agency and performed by it does not reveal that it was intended to **bring to the Government any special corporate benefit or pecuniary profit. Furthermore,** the Irrigation Act (Act 2152), as amended, does **not create or establish irrigation systems for the private advantage of the Government, but primarily and chiefly for considerations connected with the general welfare of the people;** and in so far as the determination of claims for the appropriation of public waters is concerned, the Irrigation Act places the Director of Public Works on equal footing with the Director of Lands with respect to applications for the appropriation of disposable public lands. Consequently, the employees working therein do not fall within the exception of Section 11 of the Industrial Peace Act." (Underscoring supplied.)

From the afore-cited ruling of the Supreme Court, it can be gathered that a government corporation not intended to bring to the government any special corporate benefit or pecuniary profit or not established for private advantage of the government but primarily and chiefly for considerations connected with the general welfare of the people, exercises governmental functions. But we encounter the nebulous twilight zone in the case of those government corporations which are established chiefly and primarily

for considerations connected with the general welfare of the people but which also realize profits and incur losses as in the case of business corporations.

The ever-increasing scope of governmental activities and the entry of the government into fields of enterprises hitherto classically reserved for private initiative has made the dividing line between purely governmental and the private enterprise hard to discern. It may happen that the same agency has both governmental and corporate character. In such a case, we are faced with the following questions: Where a government corporation is exercising both governmental and proprietary functions, do employees therein have the right to strike for the purpose of securing changes or modifications in the terms and conditions of employment? It is to be noted that in Sec. 11 of the Magna Charta of Labor, the law does not exempt from the prohibition against strikes only the employees employed in purely proprietary functions. Thus, is a particular government corporation exercising primarily governmental function within the prohibition against strikes in Sec. 11, or is it only one exercising exclusively or purely governmental functions that falls within the said prohibition?

Thus, in connection with the National Waterworks and Sewerage Authority, a thought-provoking question is whether the furnishing and the supply, upon payment of proper charges, of clean and hygienic water to the inhabitants of a city or town, is a governmental function.

A question that has been raised to the Supreme Court is whether the National Marketing Corporation, otherwise known as the NAMARCO, exercises principally governmental functions. According to its charter, Rep. Act No. 1345, as amended, the NAMARCO was created in order to stabilize the prices of commodities in short supply, to assist Filipino retailers and businessmen by supplying them with merchantable goods at prices that will enable them to compete successfully in the open market so that they may have greater participation in the distribution system of our economy.

In *PRISCO v. PRISCO Workers Union and CIR* (*PRISCO, G.R. No.* 9797, 9854, *Nov.* 29, 1957), the Supreme Court ruled that the defunct Price Stabilization Corporation was a government-owned corporation run and operated like any ordinary corporation which may realize profit and incur losses and, therefore, it was not exempted from the provisions of Com. Act No. 444, otherwise known as the Eight-Hour Labor Law. However, it is maintained by the NAMARCO that under its charter, which is not the same as that of the PRISCO, the NAMARCO has been expressly created "not for the purpose of making profits but to render an essential public service in order to promote the social and economic welfare of the nation."

In the strike of Government Service Insurance System employees, the basic question involved therein, was whether or not the GSIS is performing

principally proprietary functions. Labor claimed that the question has already been settled in the affirmative by the Supreme Court in *GSIS v. Castillo,* 52 *O.G.* 4269, wherein it held that the System is a private business concern and is not engaged in governmental functions. On the other hand, management maintained that the ruling in the Castillo case was a mere *obiter dictum* and was made in connection with the particular issue raised in the said case namely, whether the Court of Industrial Relations under Com. Act No. 103, which provides for compulsory arbitration, could acquire jurisdiction over the System in as much as under the said law, the CIR could acquire jurisdiction only over disputes in agricultural, industrial and commercial establishments and that it is only in Sec. 11, Rep. Act No. 875, which was not squarely at issue in the Castillo case, that our law prohibits strikes against the government. It was also contended that the power of the GSIS to invest its funds is only incidental to the main function of promoting the efficiency and welfare of the government employes thru the administration of a retirement, life insurance and pension system and in order to assure continued financial capacity of the System to meet its obligations to its members.

Another area of conflict is whether or not the employees of government corporations employed in governmental functions have the right to collective bargaining, as guaranteed by the Magna Charta of Labor. Under Sec. 13 thereof, the duty to bargain collectively means "the performance of a mutual obligation to meet and confer promptly and expeditiously and in good faith, for the purpose of negotiating an agreement with respect to wages, hours, and/or other terms and conditions of employment, and executing a written contract incorporating such agreement if requested by either party, or for the purpose of adjusting any grievances or questions arising under such an agreement, but such duty does not compel any party to agree to a proposal or to make concession." But under Sec. 11 of the same law, it will be noted that the terms and conditions of employment in the government, including any political subdivision or instrumentality thereof, are governed by law. Therefore, it would seem that in corporations with governmental functions, while the employees thereof may belong to any labor organization, however, they are not entitled to bargain as to wages, hours of work, and other terms and conditions of employment. Thus, in the *Angat Case, supra* the Supreme Court held that:

> " x x x We believe that if it were the intent of the law to relegate the Government to the position of an ordinary employer and equally impose on the same the duty to enter into collective bargaining agreements with its employees, there would be no reason for the statement in Section 11 of the Industrial Peace Act to the effect that 'terms and conditions of employment in the Government including any political subdivision or instrumentality thereof, are governed by law,' instead of leaving them to be the subject of proper bargaining contracts. Evidently, in making this declaration and the pronouncement that it would be the policy of said Act to prohibit strikes

against the government for the purpose of securing changes or modifications in their terms and conditions of employment, Republic Act No. 875 exempts the government from the operation of its provisions on collective bargaining because conditions of employment in the government service can no longer be the subject of agreements or contracts between the employer and the employee. Indeed, it is noteworthy to remember that these matters are fixed, not by any private person, but by Congress, and that appointments and promotions in the government service are determined by merit and fitness, subject to the regulations issued and adopted by the Bureau of Civil Service. x x x."

It is interesting to note that in a line of decisions involving the Sto. Tomas University Hospital, San Beda College, Quezon Institute, Philippine National Red Cross, Boy Scouts of the Philippines, University of San Agustin, YMCA, and the Elks Club, the Supreme Court has held that labor legislation has no application to institutions or offices or corporations organized and operated not for profit or gain.

In the case of *Boy Scouts of the Philippines v. Juliana Araos, G.R. No. L-10091, January* 29, 1958, the Supreme Court ruled that:

"Republic Act No. 875 is concerned only in regulating the relations between management and labor in organizations and entities engaged in a profitable trade, occupation or industry. The law is itself called 'An Act to Promote Industrial Peace and For Other Purposes,' and Section 1, Paragraph (a) declares the policy of the Act to eliminate the causes of industrial unrest. and Paragraph (b), to promote sound stable industrial peace. Then Section 10 entitled 'Labor Disputes in Industries Indispensable to the National Interest,' provides that when in the opinion of the President, there exists a labor dispute in an industry indispensable to the national interest, he may certify the case to the Court of Industrial Relations. From these, it is obvious that what the legislature had in mind and what it intended the law to govern were industries whose meaning is too obvious to need explanations."

Another area of conflict is whether collective bargaining agreements in government corporations shall prevail over civil service rules, regulations and laws as to wages, hours of labor and other terms and conditions of employment.

At a meeting held on September 16, 1957, the cabinet thru a resolution laid down a policy that in government corporations which operate under the profit system, the agreements regarding salary increases would be respected but as to government corporations which are performing purely governmental functions, the regulations of the Wage and Position Classification Office shall govern the salary scale. On November 7, 1957, Executive Order No. 278 was promulgated by the President of the Philippines which provides that "no salary increase shall be granted to an officer or employee of any department, office or other entity of the national government, including government-owned or controlled corporations, which raises his actual salary above the minimum of the salary range of the class

to which his position is allocated by WAPCO until the salaries for all positions in the department, office, corporation, or other entity, have been adjusted to the minimum of their respective authorized salary range." In Opinion No. 19, Series of 1958, the Secretary of Justice held that Executive Order No. 278 is applicable to all government-owned and controlled corporations. A question that now arises is what effect, if any, Executive Order No. 278 has upon the right to enter into collective bargaining agreements in government corporations which perform proprietary functions. It would seem that notwithstanding the previous cabinet resolution, and in the light of Executive Order No. 278, agreements concerning salary increases in government corporations performing proprietary functions shall now be respected only if the increase does not raise the actual salary above the minimum of the salary range of the class to which a position is allocated by WAPCO. But unless this matter is clarified, it may continue to be a potential source of controversy in government corporations.

In the interest of industrial peace in government corporations, the following steps or amendments in the law are suggested:

(1) That an Executive Order be issued by the President of the Philippines classifying the functions of all government-owned and controlled corporations;

(2) That Republic Act No. 875, be amended by defining the meaning of governmental and proprietary functions;

(3) That Republic Act No. 875, be amended by clarifying whether the prohibition against strikes in Sec. 11 thereof shall apply only to corporations exercising *principally* or to those exercising *purely* governmental functions;

(4) That Republic Act No. 875, be amended by providing that in corporations performing principally proprietary functions, the collective bargaining agreements therein shall prevail over and all civil service rules, regulations or laws on rates of pay, hours of work and other terms and conditions of employment.

Peace is the tranquility of order. Industrial peace is possible only if God is the center of harmony in the heart of man, and in the conscience of the nation. Unless there is a profound renewal of the Christian spirit; unless we restore God in the minds and the hearts of our people and of the people's representatives; unless we realize the supremacy of the moral law which commands us to seek in all our conduct our supreme and final end; unless we hold that industry does not belong to the realm of mere mechanical necessity but that it constitutes an order of human relations which is determined by ends and purposes and regulated by moral laws, notably the law of justice, our social edifice will be built, not upon a rock, but upon shifting sand.

In the manner of ancient mariners who guided themselves by the stars, as we sail on the troubled seas of industrial strife, let us be guided by the light of RERUM NOVARUM, in which Leo XIII of happy memory, laid

down for all mankind the right solution of the difficult problem of human solidarity, called the social question.

Industrial peace, in or out of government, can be fully achieved when at both sides of the bargaining table, we find true Christians, supernatural men who think, judge, and act constantly and consistently in accordance with right reason illumined by the supernatural light of the example and teaching of Christ. The restoration of the Christian conception of the unity of life will surely result in the redemption, the moralization and the humanization of industry. Then and only then can we say together with St. Thomas: "Ex sua ratione justitia habet quod sit ad alterum." Justice is essentially a virtue that governs man's relations to others.

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