SUPREME COURT
FIRST DIVISION

METROPOLITAN TRANSPORTATION SERVICE (METRAN),
Petitioner,

-versus-

G.R. No. L-1232
January 12, 1948

JOSE MA. PAREDES, VICENTE DE LA CRUZ and ARSENIO C. ROLDAN, Judges of Court of Industrial Relations, and THE NATIONAL LABOR UNION,
Respondents.
x----------x

D E C I S I O N

HILADO, *J.*:

Before the Court of Industrial Relations a petition was filed in case No. 36-V entitled "National Labor Union, versus Metropolitan Transportation Service (Metran)," wherein petitioner alleged that it was a legitimate labor organization, thirty of whose affiliated members were working and under the employ of the respondent; that the respondent "is a semi-governmental transportation entity, popularly known as 'Metran,' and after several other allegations concluded with the prayer that its nine demands at length set forth in said petition be granted. In behalf of the so-called respondent an oral

petition for dismissal of the case was made before the court on October 22, 1946. " on the ground that the respondent belongs to the Republic of the Philippines and as such, it can not be sued" (Order of C.I.R. of November 7, 1946, Annex C). By its aforesaid order, the court denied the motion to dismiss, citing in support of such resolution a paragraph allegedly quoted from an opinion of Justice Ozaeta speaking for the Supreme Court "in the case of the Manila Hotel," in the words of the order.

In behalf of the instant so-called petitioner a motion for reconsideration of that order was filed (Annex D) but it was denied by the Court of Industrial Relations by its resolution dated December 3, 1946 (Annex E).

On December 7, 1946, a notice of appeal (Annex F) was filed by counsel, and the case is now submitted on appeal under the provisions of Rule 44.

It appears that the Metropolitan Transportation Service (Metran) is not a corporation nor any of the juridical entities enumerated in article 35 of the Civil Code. Rule 3, Section 1 provides:

> "SECTION 1. Who may be parties. — Only natural or judicial persons may be parties in a civil action."

> > "Action" is defined by Rule 2, section 1, as "an ordinary suit in a court of justice, by which one party prosecutes another for the enforcement or protection of a right, or the prevention or redress of a wrong." Considering that the very law of its creation (Commonwealth Act No. 103, as amended), denominates the lower tribunal as a "court" (section 1), considering the powers and duties conferred and imposed upon it (Chapter II), its incidental powers (Chapter III), the fact that Chapter IV of said Act and Rule 44 of the Rules of Court provide for an appeal from an award, order, or decision of the Court of Industrial Relations to the Supreme Court, unquestionably a court of justice, and the fact that section 20 of said Commonwealth Act No. 103 confers upon the Court of Industrial Relations the power to adopt its rules of

> procedure and "such other powers as generally pertain to a court of justice" (italics supplied), and considering finally the importance in the life and economy of the nation of the industrial relations which have thus been placed under the jurisdiction of said Court of Industrial Relations, in the hearing and determination of which cases thus submitted to it, said court administers justice between parties, we have no hesitation in holding that it is a "court of justice" within the meaning of Rule 2, Section 1.

In the case of Health vs. Steamer "San Nicolas" (7 Phil., 532), suit was brought H. L. Heath against the Steamer "San Nicolas." "No natural or juridical person was named as defendant in the complaint," commented this Court. Mr. Justice Willard, speaking for the Court, stated the important question calling for decision therein as follows:

> "The important question discussed in the briefs in this court, and to be decided, is whether such a proceeding as the one in question, directed against the ship itself, without naming any natural or juridical person as defendant, can be maintained in these Islands." (Page 534 of cited volume.)

The Court, in resolving said question, inter alia, declared:

> "The first question to be considered is whether this action was properly brought against the ship and whether an action can now be maintained when the only defendant named is neither a natural nor juridical person. Under the law in force prior to 1898 there was no doubt upon this subject. It was absolutely indispensable for the maintenance of a contentious action in the courts of justice to have as defendant some natural or juridical person. A suit against a ship, such as is permitted in the English and the American admiralty courts, was unknown to the Spanish law. It is true that the Spanish Law of Civil Procedure contained certain provisions relating to voluntary jurisdiction in matters of commerce, but none of these provisions had any application to a contentious suit of this character.

> "It being impossible to maintain an action of this character against a ship as the only defendant prior to June, 1901, it follows that it such action can now be maintained it must be by virtue of some provision found in the Code of Civil Procedure and which is the only new law now in force relating to this matter. An examination of the provisions of that code will show that no such action is authorized. It cannot, therefore, be now maintained and the demurrer of Borja should have been sustained on that ground." (Pages 537-538 of cited volume.)

Under the foregoing doctrine, it is obvious that the Metropolitan Transportation Service (Metran) could not be sued in the Court of Industrial Relations. A corollary of this is that no award, order or decision could be rendered against it. If so, how could it be said that the Court of Industrial Relations had jurisdiction to take cognizance of the case?

Moreover, there is another vital reason why the Court of Industrial Relations lacked jurisdiction to entertain the petition, much less to grant the remedies therein prayed for. It is beyond dispute that the Metropolitan Transportation Service (Metran) is and was at the times covered by the petition in the Court of Industrial Relations an office created by Executive Order No. 59 and operating under the direct supervision and control of the Department of Public Works and Communications. (Petition par. 1, admitted by respondent judges' answer, par. 1 and by respondent Union's answer, par. 1.) The said office not being a juridical person, any suit, action or proceeding against it, if it were to produce any effect, would in practice be a suit, action or proceeding against the Government itself, of which the said Metropolitan Transportation Service (Metran) is a mere office or agency. Any award, order or decision granting any of the Union's demands, if attempted to be executed, would necessarily operate against the government which is really the entity rendering the services and performing the activities in question through its office or agency called Metropolitan Transportation Service (Metran). The case is different from those of the so-called government-owned corporations, such as the Philippine National Bank. National Development Company, the Manila Hotel, etc., which have been duly incorporated under our corporation law or special characters, as one of whose powers is "to sue and be sued in any court" (Corporation

Law, section 13 [a], and which actually engage in business; while in rendering the services and performing the activities here involved the Government has never engaged in business nor intends to do so. Now, it is a well-settled rule that the Government cannot be sued without its consent (Merritt vs. Government of the Philippine Islands, 34 Phil., 311) and here no consent of the government has been shown. This is not even a case governed by Act No. 3083 which specifies the instances where this government has given its consent to be sued (Compañia General de Tabacos de Filipinas vs. Government of the Philippine Islands, 45 Phil., 663. And the Manila Hotel case relied upon by the Court of Industrial Relations in its order Annex C, is inapplicable for the reason that the Metropolitan Transportation Service (Metran) is not a corporation, nor any other kind of judicial person for that matter. If the Metropolitan Transportation Service (Metran) could not be sued and the Court of Industrial Relations could not render any decision, judgment, award or order against it, all the proceedings had in said court were null and void. A case very similar to the present was Salgado vs. Ramos (64 Phil., 724, 727), from which we quote the following passage:

> "Consequently, while the claim is actually made against the Director of Lands, it is juridically against the Government of the Philippine Islands of which the Director of Lands is a mere agent, in accordance with the provisions of article 1727 of the Civil Code."

On the other hand, the instant proceedings should be considered, as we treat it, as having been instituted by the Government itself, since the Metropolitan Transportation Service (Metran) is a mere office or agency of said government, unincorporated and not possessing juridical personality under the law, incapable of not being sued but suing (Rule 3, section 1). The very allegations, arguments and contentions contained in the petition clearly show that to all intents and purposes said petition was being presented in behalf of the Government as the real party in interest. Rule 3, section 2, provides that every action must be prosecuted in the name of the real party in interest. And giving effect to the spirit of liberality inspiring Rule 1, section 2, and in order to avoid multiplicity of suits, we believe that this is a proper case for applying the principle that the "the law considers that as done which ought to have been done."

Parenthetically, however, we may say that were we to be more rigorous with petitioner herein in this regard, we will have to be equally rigorous with petitioner in the Court of Industrial Relations on the same score, with the practical result that any way the proceedings before that court will have to be dismissed.

It would be sophistical to say that the suit or action against the said office or agency of the government is not a suit or action against the government itself, upon the ground that the prohibition only covers suits against the government as a whole. A commonplace illustration will, we think, demonstrate the fallacy of such a theory: In order that it may be said that a man has been attacked by another, the latter does not need to deliver blows or shower shots all over the body of the victim injuring each and every part thereof, but if the blow or the shot is inflicted upon the arm or any other part of his body, we say that the victim was attacked by the aggressor. The Bureau of Public Works under whose supervision the Metropolitan Transportation Service (Metran) has been organized and functions is an integral part of the government, just as the said office or agency. And apart from the consideration that neither said Bureau nor said office has any juridical personality to be sued for reasons already set forth, any suit or action attempted against either will necessarily be a suit or action against the government itself.

> *"Accordingly it is well settled, as a general proposition, that, where a suit is brought against an officer or agency with relation to some matter in which defendant represents the state in action and liability, and the state, while not a party to the record, is the real party against which relief is sought so that a judgment for plaintiff, although nominally against the named defendant as an individual or entity distinct from the state, will operate to control the action of the state or subject it to liability, the suit is in effect one against the state and cannot be maintained without its consent. Apparently for this rule to apply the relief asked must involved some direct or substantial interest of the state, as a distinct entity, apart from the mere interest a state may have in the welfare of its citizens or the vindication of its laws. Within the inhibition of the rule, however, are suits wherein a state officer or agency is, or will*

> *be, required to use state property or funds in order to afford the relief demanded."* (59 C. J., 307-309; Italics supplied.)

In a republican state, like the Philippines, government immunity from suit without its consent is derived from the will of the people themselves in freely creating a government "of the people, by the people, and for the people" — a representative government through which they have agreed to exercise the powers and discharge the duties of their sovereignty for the common good and general welfare. In so agreeing, the citizens have solemnly undertaken to surrender some of their private rights and interest which were calculated to conflict with the higher rights and larger interests of the people as a whole, represented by the government thus established by them all. One of those "higher rights," based upon those "larger interests" is that government immunity. The members of the respondent Labor Union themselves are part of the people who have freely formed that government and participated in that solemn undertaking. In this sense — and a very real one it is — they are in effect attempting to sue themselves along with the rest of the people represented by their common government — an anomalous and absurd situation indeed.

The case is radically different from a dictatorship, or an aristocratic, oligarchical, autocratic, or monarchical government, where any similar immunity will be the creature of the will of one man or of a powerful few. The principle is further grounded upon the necessity of protecting the performance of governmental and public functions from being harassed unduly or constantly interrupted by private suits. (See also McClellan vs. State, 170, p. 662; 35 Cal. App., 605, 606.) Where the government is "of the people, by the people, and for the people," such immunity from suit will only be the reaffirmation of the sovereignty of the people," such immunity from suit will only be the reaffirmation of the sovereignty of the people themselves as represented by their government in the face of the obvious impossibility of constituting the entire people into one single body to exercise the powers and enjoy the immunities of that sovereignty.

Upon the whole, we are clearly of opinion that the proceedings had in the Court of Industrial Relations and now subject of this appeal are null and void, particularly said court's order of November 1, 1946 (Annex C) and the resolution of December 3, 1946 (Annex E), with

the necessary consequence that the said court should be, as it is hereby, enjoined from taking any further action in the case inconsistent with this decision.

No costs. So **ORDERED**.

Moran, *C.J.*, Paras, Feria, Pablo, Bengson, Hontiveros, Padilla and Tuason, *JJ.*, concur.

SEPARATE OPINIONS

PERFECTO, J., dissenting:

The present case places before us for our consideration several questions of no mean importance.

Are the laborers of an office or agency of government to be discriminated against and deprived of the essential rights recognized by the Constitution and the laws in laborers working in the service of private persons or companies?

Have the laborers in the service of a government office or agency lost their fundamental right to air grievances before the competent authorities?

Have such laborers, because they are serving an official agency, lost their human personality, to become voiceless serfs or slaves or simple beasts of burden?

Is an office or agency of government a thing placed and should be placed above the law?

Can the government itself validly pretend to be above the law?

Within our democratic system of government, is it possible to recognize anything paramount to the supremacy of the law?

Have we lost the democratic bearings of our national way of life, as to reject now the political philosophy to defend which we fought in the last war, to be replaced by the totalitarian practices that enthrones the powerful above all law?

On October 21, 1946, the National Labor Union, a worker's organization with more than thirty affiliated members, working in the service of Metran, a government agency, filed with the Court of Industrial Relations, a petition with the following prayer:

"The demands of the petitioning union are as follows:

> "1. That the present unfair and unreasonable practices should be immediately abolished:
>
> > "(a) The 'Grading System' and its resultant unjust suspension of personnel;
> >
> > "(b) The capricious 'Rotation System' which is undemocratic and based upon favoritism;
> >
> > "(c) The continued recruitment and placement of new personnel when the METRAN is already overmanned with its regular and substitute working force — a pernicious practice that undermines the morale and affects gravely the efficiency and economic security of its laboring constituents;
> >
> > "(d) The economic lynching in the practice of cutting the earning hours of drivers and conductors after the lapsing of thirty (30) minutes allowance given for the repairing of buses and trucks, which troubles are duly reported to the management, and the dictatorial practice of retaining without pay the personnel concerned in spite of the fact that repairs of said buses had not been effected within said time allotment and immediately thereafter; and
> >
> > "(e) The confiscation of badges from personnel suspended without justifiable causes and without first returning the corresponding deposits therefor.

"2. That the general deduction of Fifty Centavos (P0.50) from the wages and salaries of personnel affected should be returned and paid is for from the date it was effectuated up to the time this case is finally terminated;

"3. That one hundred per cent (100%) additional compensation over the regular wages and salaries be paid to all workers and employees compelled to work during Sundays and legal holidays;

"4. That long waiting beyond eight (8) hours of conductors for the reporting and accounting of daily earnings of their respects buses be considered 'Overtime Work' and be paid for;

"5. That all overtime work already rendered by all affected workers and the employees should be paid;

"6. That all workers and employees, especially drivers and conductors of buses and trucks, should have one day of rest in seven with pay;

"7. That permanent employees and workers, who have rendered at least six (6) months service to the company, should be entitled to sick leave of two (2) weeks with pay;

"8. That workers and employees should have representation in the management, a practice initiated by the government; and

"9. All workers and employees who were dismissed or suspended because of their union activities should be reinstated."

On October 29, 1946, Metran filed a motion praying for the dismissal of the petition upon the allegation that "the government cannot be sued without its consent."

On November 7, 1946, Associate Judge Vicente de la Cruz, denied the motion for dismissal and ordered respondent to file his answer, the order being based on the opinion that the Court of Industrial

Relations has jurisdiction to hear and decide the case in accordance with Section 4 of Commonwealth Act No. 103. Said section is as follows:

> "Strikes and lockouts. — The Court shall take cognizance for purposes of prevention, arbitration, decision and settlement, of any industrial or agricultural dispute causing or likely to cause a strike or lockout, arising from differences as regards wages, shares of compensation, hours of labor or conditions of tenancy or employment, between employers and employees or laborers and between landlords and tenants or farm-laborers, provided that the number of employees, laborers or tenants or farm-laborers involved exceeds thirty, and such industrial or agricultural dispute is submitted to the Court by the Secretary of Labor, or by any or both of the parties of the controversy and certified by the Secretary of Labor as existing and proper to be dealt with by the Court for the sake of public interest. In all such cases, the Secretary of Labor or the party or parties submitting the disputes, shall clearly and specifically state in writing the questions to be decided. Upon the submission of such a controversy or question by the Secretary of Labor, his intervention therein as authorized by law, shall cease.
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> "The Court shall, before hearing the dispute and in the course of such hearing, endeavor to reconcile the parties and induce them to settle the dispute by amicable agreement. It any agreement as to the whole or any part of the dispute is arrived at by the parties, a memorandum of its terms shall be made in writing, signed and acknowledged by the parties thereto before the Judge of the Court or any official acting in his behalf and authorized to administer oaths or acknowledgments, or, before a notary public. The memorandum shall be filed in the office of the Clerk of the Court, and, unless otherwise ordered by the Court, shall, as between the parties to the agreement, have the same effect as, and be deemed to be, a decision or award."

On November 11, 1946, petitioner moved for the reconsideration of the order and the motion was denied in a resolution adopted on December 3, 1946, by Judges Jose Ma. Paredes, Presiding, Arsenio C.

Roldan and Vicente de la Cruz. The following pronouncements are made in the resolution:

> "We believe, however, that irrespective of the question as to whether or not the respondent is a company, corporation or is merely an entity, so long as it is engaged in business and an industrial dispute exists between itself and more than 30 of its employees, laborers, drivers and conductors, arising from differences as regards to wages, compensation, dismissals, lay-offs, or suspension of employees or laborers, causing or likely to cause a strike or lockout, this Court is fully authorized and has complete jurisdiction to decide said dispute.
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> "The mere fact that the Metran Branch of the National Labor Union in whose behalf the petition was filed is still unregistered, does not deprive this Court of its right to exercise its jurisdiction, as provided for by law.
>
> "It cannot be denied that the Metran is in business. It cannot screen itself behind the sovereign power of the state, from any legal claim which its employees or laborers or third parties may have against it."

Metran appealed against the action of the Court of Industrial Relations, by filing the petition for certiorari under our consideration.

The position of the Court of Industrial Relations is absolutely correct and, therefore, the petition should be denied and so we vote. Petitioner alleges that Metran was organized "in order to provide the public with means of transportation, more efficient, faster, and cheaper than those at present available" and it "will also be in charge of the allocation of U.S. Army trucks and motor vehicles, accessories, spare parts and supply of gasoline, oil and others to the different private transportation companies." It is an office "under the supervision and control of the Secretary of Public Works and Communications," under Executive Order No. 59. It distributes free tickets to all employees of the government and provides the transportation needs of the government. Executive Order No. 28, series of 1946, directed it to furnish modern transportation facilities to all bureaus and offices of the national government.

In support of its theory, that it cannot be sued without its consent, Metran invokes the authorities quoted in the following paragraphs of its petition:

> "Since it is an office of the Government created by the State, 'it is elemental that the state or sovereign cannot be sued in its own courts without its consent.' (Beers vs. Arkansas, 20 How., 527; Memphis & C.R. Co. vs. Tennessee, 101 U.S., 337.)
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> "This principle has been adopted 'as part of the general doctrine of publicists that the supreme power in every State, wherever it may reside, shall not be compelled by process of courts of its own creation, to defend itself in those courts,' because 'the sovereign power of any nation being supreme is not amenable to the judicial department and will not permit process against itself, either directly or indirectly, or allow its operations or instrumentalities to be affected or disturbed except by special consent.' (U.S. vs. Lee, 106 U.S., 196.)
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> "'A sovereign is exempt from suit, not because of any formal conception or absolute theory but on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends. As the ground is thus logical and practical, the doctrine is not confined to powers that are sovereign in the full sense of juridical theory but naturally is extended to those that, in actual administration, originate and change at their will the law of contract and property, from which persons, within the jurisdiction, derive their rights.' (Kawawanakoa vs. Polyblank, 205 U.S., 349.)
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> "The practical advantages and benefits of the doctrine of non-suability of a state cannot be over-estimated. The United States Supreme Court explained that 'the public service would be rendered nugatory and public safety endangered, if the supreme authority could be subjected to suit at the instance of every citizen, and consequently, controlled in the use and disposition of the means required for the proper administration of the Government.' (Siren vs. U.S., 7; Wall, 152.) Or in the words of Justice Gray: 'The broader reason is that it would be

> inconsistent with the very idea of supreme executive power and would endanger the performance of the public duties of the sovereign, to subject him to repeated suits as a matter of right, at the will of any citizen, and to submit to the judicial tribunals the control and disposition of his property, his instruments and means of carrying on his government in war and peace, and the money of his treasury.' (Briggs vs. The Light Boats, 11 Allen, 162.)"

Those who are able to read will immediately find that none of the authorities invoked by petitioner have any bearing with the present controversy. What said authorities declare exempt from suit is what is designated in the following words of the cited authorities: "the state or sovereign"; "the supreme power in every state"; "the sovereign power of any nation"; "a sovereign"; "the supreme authority"; "the supreme executive power"; "the powers that originate and change at their will the law of contract and property."

Does Metran pretend to be identified with the "state"? Is Metran another king of France proclaiming "L'etat cest moi"? Is Metran the "sovereign," when, according to our Constitution, sovereignty resides in the people" Is Metran "the supreme power" or the "supreme authority" of our nation? Only a paranoiac megalomania may justify an affirmative answer to these questions.

Petitioner's proposition to the effect that, because it is an office or agency of government, it is exempt from suit, is not supported by any authority invoked by petitioner himself, and it cannot be supported by any authority in his senses, because it is utterly unreasonable, without any foundation in law, and diametrically opposed to the system of government of laws, which is the one established by our Constitution. Merrit vs. Government (34 Phil., 311) and Compañia vs. Government (45 Phil., 663) do not support the theory. The refer to the government as a whole.

The elemental rights of the laborers working in the service of Metran should not be nullified upon such a far-fetched proposition. Besides, it involves a dissolvent and destructive political philosophy. What does Metran intend by denying the power of the Court of Industrial Relations to hear and decide the labor dispute between itself and its

employees? Instead of the orderly settlement of the dispute by the Court of Industrial Relations, does it want to drive its laborers into declaring a strike, into resorting to picketing, or into taking violent and desperate measures, whether hopelessness may suggest to persons struggling for personal dignity, for fundamental rights, for the opportunity of enjoying a decent living? While the people, as the sovereign, and the state representing that sovereignty, or the government as a whole, representing the supreme authority of the state, cannot be sued in any court, no individual officer of government and no single office or agency of government can claim such exemption. No official or agency of the government in above the law and everybody who is under the law is amenable to be sued in court.

The old monarchs of divine origin, assumed that they could not do wrong and, therefore, they were placed beyond the pale of the law. They were the law themselves. The dictators, such human specimens as Hitler, Mussolini, the Japanese Emperor, had the crazedness of placing themselves above the law, and humanity felt the overwhelming scourage of such bathismal madness or perversity. It there anyone in our government who is attempting to emulate the misdeeds of said megalomaniacs? Has any one in our government been infected by the virus of insanity which drove the dictators into a spree of destruction and mass murders?

Metran's theory that it cannot be sued without its consent is too pretentious to merit consideration from a court of justice. The theory is premised on the preposterous proposition that to sue Metran is to sue the government, and the government cannot be sued without the consent of the same government. Since when has Metran become the government? There is no government in the Philippines except the one established by the Constitution, and such government is constituted by the whole and complete structure, wherein the Legislative Department, the Executive Department, the Judicial Department are each one but a part of a united system, deriving all its powers from the people, on whom sovereignty resides. The President is not the government. He is but the highest personal authority within it. Congress is not the government; neither are its component chambers — the Senate and the House of Representatives. It only holds the highest power of determining the national policies through

laws it may enact. Neither the Supreme Court nor the whole judicial machinery is the government, although to make effective the supremacy of the law, the Constitution placed in the Supreme Court the conclusive power of saying the last word on all matters and controversies where law and justice are invoked.

It petitioner itself alleges that it is but an adjunct under the supervision and control of the Secretary of Public Works and Communications, who is but a member of the Cabinet, which is only an auxiliary body to help the President in the performance of his executive duties, — and the members may remain in office only at the pleasure of the President — how can it be the government when even the principal to which it is but an appendage is not and cannot be the government?

The evil consequences of petitioner's theory are immediately apparent. In case Metran should happen to employ in its service reckless chauffeurs to drive its many heavy trucks, and by their recklessness private property is destroyed and the life of innocent citizens is taken, shall the aggrieved parties have to secure first the consent of Metran before they can sue? If in the simple labor disputes submitted to the Court of Industrial Relations, Metran has chosen to refuse its consent to be sued, to the extent of seeking our help to its claim to be placed above the law, can anyone expect that it will give its consent, where its responsibility for property destroyed and lives taken is to be enforced in the tribunals? Shall the victims then resign to their helplessness, without even the consolation of the sacramental "I am sorry" with which the Nippon kempeis used to bid farewell to those who, after many months of incarceration and unbearable torture, were finally released because the kempeis themselves concluded that all their suspicions were absolutely groundless?

The possibility of the hypothesis being materialized is not remote. Personal safety and life are constantly in jeopardy whether at nighttime or in the daytime, in the crowded or uncrowded streets, in the very capital of the nation. Traffic laws, ordinances and rules are every minute wantonly violated under the very noses of police officers in uniform and bearing all the external symbols of authority. Uncontrolled speed where it may cause more harm; insolent cutting of way and criss-crossing; breaking lines, purportedly to get a few

meters ahead of other cars resulting in blocking the traffic and causing many persons long and unreasonably long delays; the arrogance with which big trucks and buses enforce their self-bestowed right of way, because they will suffer less in collision; the shameless focusing of headlights with blinding glare at nighttime, are but some of the culpable everyday practices that are continuously endangering the property and life of innocent citizens. Lack of discipline in the great majority of the drivers of public service vehicles, and of many low-numbered cars of high officials, is bolstered by the indifference or leniency of many agents of the law in charge of traffic. There is absolutely no method as to when or where passengers are to be picked. Buses and jeeps will run at great speed to short distances, causing vexatious and deafening noise, then suddenly stop to scramble for the favor of a lone by-stander which might be a prospective passenger. In this general scorn for the law, for the security of property for the safety of the life and limb of the people, the Metran buses cannot be excluded from the group of public service vehicles, which are the most frequent and worst violators. Were all the employees of Metran advised that Metran is above the law, that it cannot be sued without its consent, no matter what injustices, grievances and iniquities it may perpetrate?

If Metran's theory is to find support in this Court, what will preclude other offices and agencies of government from claiming the same privilege? What will preclude all officers and employees of the government from claiming the same immunity? The government then will become a bunch of immunes and untouchables. No matter what arbitrariness, abuses, anomalies and culpable blunders they may commit and no matter the magnitude of the harm they may cause to private persons, the latter will just have to keep quiet as those herded in the Nazi concentration camps. We are not willing to live under such a condition. A people with any sense of dignity would rather endure a thousand deaths than submit to such a humiliating and shameless situation."

The petition must be denied. The Court of Industrial Relations must not be hampered in taking cognizance of the case and in proceeding to try it until final decision.

BRIONES, M., disidente:

Creo que el presente recurso debe denegarse. Estimo que la Corte de Relaciones Industriales tiene jurisdiccion para actuar y resolver la disputa obrero-industrial de que se trata y por tanto la orden, cuya revocacion se pide, debe ser sostenida.

El caso de Manila Hotel Employees' Association contra el Manila Hotel y la Corte de Relaciones Industriales (R. G. No. 48524, decidido por esta Corte Suprema el 1. de Noviembre, 1941) es aplicable, por analogia, al presente asunto. Se arguye que existe una diferencia fundamental como es la Manila Railroad, la Metropolitan Transportation Service conocida vulgarmente por METRAN no lo es sino que es una oficina sujeta al Departamento de Obras Publicas. En otras palabras, se arguye que la METRAN no tiene personalidad juridica y, por tanto, no puede demandar ni ser demandada.

Creo, sin embargo, que para los efectos de la jurisdiccion de la Corte de Relaciones Industriales, tal diferencia es immaterial y carece de importancia. Queramos o no, nuestro gobierno — el gobierno de Filipinas — esta adherid_definitivamente desde hace bastante tiempo, tanto en el terreno de los principios como de la realidad, a una politics limitada de explotacion de ciertos negocios y utilidades publicas para promover la capacidad industrial y productiva de la nacion, y para fomentar el bienestar general. La formacion de la Compañia de Fomento Nacional (National Development Company), con sus diferentes ramificaciones como la fabrica de cemento de Cebu, la manufactura de tejidos, la conserva de pescados, la explotaciones carboniferas, etc., etc., esta concebida e inspirada en dicha politica. La idea no es talmente organizar un Estado socialista, sino mas bien suplir la iniciativa privada alli donde o falta y escasea el capital, o donde este, por timidez, no quiere exponerse a riesgos. Una vez que la empresa este establecida y funcionando con exito, el plan preconcebido es entregarla a manos particulares, yendo el gobierno a explotar como "pioneer" otros campos no probados. En la Constitucion se autoriza expresamente la expropiacion de utilidades publicas de propiedad particular, cuando el interes general lo exigiere.

> "The State may, in the interest of national welfare and defense, establish and operate industries and means of transportation and communication, and, upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the government. (Art. XIII, Sec. 6 Constitucion de Filipinas.)

Ahora bien; cuando el gobierno hace esto ¿ha de ser necesariamente por medio de una corporacion debidamente organizada de acuerdo con la ley general de corporaciones, o creada mediante una ley especial, o tambien puede hacerlo creanado una simple agencia mediante una orden ejecutiva, como en este case de la METRAN? Creo que si, que este ultimo es perfectamente viable, y cuando el gobierno hace esto la agencia resultante tiene tanta personalidad como cualquier otra corporation para ser, por lo menos, sometida y regulada por la Comision de Servicios Publicos y por la Corte de Relaciones Industriales. En tal caso, para poder interponer una queja o reclamacion contra dicha agencia ante cualquiera de estas dos ultimas entidades, no es necesario contar con el permiso previo del gobierno como en los casos ordinarios de demanda para exigir del mismo responsabilidades. Es absurdo pensar que el gobierno organice una agencia como la METRAN, con la idea de sustraerla a la jurisdiccion de la Comision de Servicios Publicos o de la Corte de Relaciones Industriales, segun sea el caso. Asi como la METRAN se somete a la Comision de Servicios Publicos para el ajuste y regulacion de las rutas y horario de sus vehiculos, colocandose en este respecto en el mismo nivel de las empresas y compañias particulares, sin necesidad de permiso previo del Gobierno, tanto si ella es la recurrente como es la recurrida, asi tambin debe someterse a la Corte de Relaciones Industriales para el arreglo y solucion de las diferencias y disputas con sus obreros, sin tampoco necesidad de previa licencia del gobierno. Cuando el gobierno interviene en la operacion de utilidades publicas, aunque no sea para fines de lucro como en el caso de la METRAN, debe ser tratado como un particular cualquiera el gobierno se crearia injustamente para si ventajas y privilegios en relacion con las empresad particulares, y sus obreros, sobre todo, estarian en peor situacion que los particulares, pues quedarian privados del amparo y de los beneficios proveidos por las leyes que rigen las relaciones industrio-obreras. Presumo que el gobierno no permitira que se anulen los fines altamente buenos y saludables de

dichas leyes; por el contrario, debe ser el primero en el respeto y observancia de las mismas.

Ademas, la METRAN se halla en “estoppel” para cuestionar la jurisdiccion del Tribunal de Relaciones Industriales. De autos resulta que ella, por medio de su Gerente General interino Sr. Hermenegildo B. Reyes, sometio al Departamento del Trabajo una solicitud de afiliacion a la National Labor Union, lo cual significa implicitamente una sujecion voluntaria y automatica a la jurisdiccion de la Corte de Relaciones Industriales.

Es una verdadera lstima. Dicho sea con todos los respetos debidos, la dicision de la mayoria en este asunto constituye un retroceso en los progresos y avances que nuestra legislacion y jurisprudencia sociales e industriales han hecho firmemente en estos ultimos años. En vez de cortarle los vuelos a la Corte de Relaciones Industriales en todo lo que es propia y legitimamente posible, debieramos permitir una sana y vigorosa expansion de sus funciones transcendentales de arbitraje industrial y obrero.