DECISIONS OF THE COURT OF INDUSTRIAL RELATIONS

I

National Labor Union, Petitioner, vs. Malate Taxicab & Garage, Inc., Respondent, Case No. 946-V, November 9, 1954, Bautista, J.

1. COURT OF INDUSTRIAL RELATIONS; PAYMENT OF ONE MONTH SEPARATION PAY; LAW APPLICABLE. — The petition alleges that the 360 drivers of respondent were dismissed without one month notice on September 10, 1954, and that respondent, when required to pay them one month compensation, refused to do so. *HELD*: There is a cause of action based on the provisions of Republic Act No. 1052 which was enacted on June 12, 1954.

2. IBID.; IBID.; IBID.; TAXICAB DRIVERS ENTITLED TO ONE MONTH COMPENSATION UNDER REP. ACT NO. 1052; MEANING OF ONE MONTH COMPENSATION. — The case of Lara vs. Del Rosario (50 O. G., No. 5, 1975) wherein the Supreme Court held that drivers of taxicabs do not come under the provisions of Art. 302 of the Code of Commerce, because they have no fixed salary either by the day, week or the month, while the Code of Commerce speaks of "salary corresponding to one month" commonly known as "mesada", being an interpretation of a law which no longer exists is not applicable to the instant case, because Republic Act No. 1052 is different from the old law. Instead of "mesada" the new law speaks of "one month compensation". This means that whatever may be the compensation, whether it is based on a fixed salary for hours of work or by piece work, or by commission basis, falls under the provision of the new law. Since the payment by commission is also a form of compensation, the drivers in this case are within the scope of said Republic Act.

3. IBID.; COMMONWEALTH ACT NO. 103 NOT REPEALED BY INDUSTRIAL PEACE ACT. — Although modified and supplemented by the Industrial Peace Act, Commonwealth Act No. 103 is still in force. The Industrial Peace Act expressly recognizes the Court of Industrial Relations by declaring that when this Act uses "Court" it means the Court of Industrial Relations *unless another Court shall be speccified.*" And instead of reducing the exclusive jurisdiction of the Court of Industrial Relations, the new law amplified it in cases related to unfair labor practice, certification election, investigation of internal labor organization procedures, compliance of Republic Act No. 602 and Commonwealth Act No. 444 and many other matters. There is no provision in the new law expressly repealing Commonwealth Act No. 103, but a repealing clause worded in general term: "Sec. 29. Prior Inconsistent Laws. — All acts or parts of acts inconsistent with the provisions of this Act are hereby repealed."

4. IBID.; IBID.; EFFECT OF THE INDUSTRIAL PEACE ACT ON THE COURT'S POWER OF COMPULSORY ARBITRATION UNDER COMMONWEALTH ACT NO. 103.— The compulsory arbitration in the old Act, being inconsistent with the purpose of the new law, is abolished and replaced by the process of collective bargaining. But this does not mean that the whole C. A. No. 103 is repealed. Since "laws are repealed only by subsequent ones", (NCC Art. 7) not by mere implication, the duty of the Court is to reconcile apparently conflicting laws.

5. IBID.; IBID.; IBID.; POWER OF THE COURT TO ENFORCE PAYMENT OF SEPARATION PAY. — The question is whether the Court of Industrial Relations can enforce the provision of law relating to the protection of workers. This is not a question of arbitration. No arbitration is sought by the petitioner. The question of separation pay cannot be settled in an arbitration proceeding. Since the very law fixed the amount of compensation and voids its waiver, the matter cannot be the subject either by arbitration or collective bargaining. Because, the arbitrator or the contracting parties may not fix other amounts and other terms and conditions different from the legal ones. When the "Mesada" was awarded in the leading cases of Sta. Mesa Slipways vs. CIR (G. R. No. 4521) and Philippine Manufacturing Co. vs. National Labor Union (G. R. No. 4507) the Court of Industrial Relations did not act as an arbitrator nor do any arbitration.

"No Court of the Philippines shall have the power to set wages, rates of pay, hours of employment, or conditions of employment", etc. (Sec. 7, Rep. Act No. 875). What the law wants is that the fixing of conditions of labor be left to collective bargaining. The petition for the payment of separation pay does not ask the Court of Industrial Relations to fix the condition of employment, since the law itself had already fixed it. What is asked is the enforcement of the condition of employment that is already fixed.

If the mere adjudication of one month compensation amounts to fixing the condition of employment, no court, not even the Supreme Court nor the Court of First Instance can award it, because the law says 'no court' at all can fix the conditions of employment. In such case, in what Court may the aggrieved party bring his grievances?"

Eulogio R. Lerum, for the petitioner

Diaz and *Baizas*, for the respondent.

O R D E R

Petitioner National Labor Union prays that respondent Malate Taxicab & Garage, Inc. be ordered to pay one month separation pay to all its drivers who were dismissed on September 10, 1954.

Both parties agree that respondent is a commercial establishment operating a fleet of taxicabs under the Public Service Commission; that to operate said taxicabs, respondent had to hire drivers who were paid on commission basis of 25%, on the gross earnings; that on September 10, 1954, said cars were sold to the Manila Yellow Taxicab Company and on the same date, the 360 drivers of the respondent were dismissed without giving them 30 days advance notice.

Respondent moves to dismiss this case on three (3) grounds:

1. That the petition states no cause of action;
2. That this Court has no jurisdiction over the case at bar; and
3. That the petitioning union has no capacity to sue in behalf of the 360 drivers.

I — Since the petition alleges that the 360 drivers of the respondent were dismissed without one month notice on September 10, 1954; and that the respondent, when required to pay them one month compensation, refused to do so, there is a cause of action based on the provisions of Republic Act No. 1052, which was enacted on June 12, 1954.

The case of Lara vs. Del Rosario (50 O.G. No. 5, 1975) is invoked, wherein the Supreme Court held that drivers of taxicab do not come under the provision of Art. 302 of the Code of Commerce, because they have no fixed salary either by the day, week or month, while the Code of Commerce speaks of "salary corresponding to one month", commonly known as "mesada."

The cited case, being an interpretation of a law, which no longer exists, is not applicable to this case, because Republic Act No. 1052 is different from the old law. Said Republic Act reads as follows:

"Section 1. In cases of employment, without a definite period, in a commercial industrial, or agricultural establishment of enterprise, neither the employer nor the employee shall terminate the employment without serving notice on the other at least one month in advance.

The employee, upon whom no such notice was served, shall be entitled to one month's compensation from the date of termination of his employment.

Section 2. Any contract or agreement contrary to the provisions of section one of this Act shall be null and void.

Section 3. This Act shall take effect upon its approval."

Instead of "mesada" the new law speaks of "one month compensation". This means that whatever may be the compensation, whether it is based on a fixed salary for hours of work or by piece work, or by commission basis, falls under the provision of the new law. Since the payment by commission is also a form of compensation, the drivers in this case are within the scope of said Republic Act.

II — (Although modified and supplemented by the Industrial Peace Act, Commonwealth Act No. 103 is still in force. The Industrial Peace Act, expressly recognizes the Court of Industrial Relations by declaring that when this Act uses "Court" it means the Court of Industrial Relations *unless another Court shall be specified*".

And instead of reducing the exclusive jurisdiction of the Court of Industrial Relations, the new law amplified it in cases related to unfair labor practice, certification election, investigation of internal labor organization procedures, compliancce of Republic Act No. 602 and Commonwealth Act No. 444 and many other matters.

We find in the new law, not a provision expressly repealing Commonwealth Act No. 103, but a repealing clause worded in general term:

"Sec. 29. Prior Inconsistent Laws. — All acts or parts of acts inconsistent with the provisions of this Act are hereby repealed."

We find also that the compulsory arbitration in the old Act, being inconsistent with the purpose of the new law, is abolished and replaced by the process of collective bargaining. But this does not mean that the whole C. A. No. 103 is repealed. Since "laws are repealed only by subsequent ones", (NCC Art. 7) not by mere implication, our duty is to reconcile apparently conflicting laws.

The question here is whether this Court can enforce the provision of law relating to the protection of workers. This is not a question of arbitration. No arbitration is sought by the petitioner. The question of separation pay cannot be settled in an arbitration proceeding. Since the very law fixed the amount of compensation and voids its waiver, the matter cannot be the subject either by arbiration or collective bargaining. Because the arbitrator or the contracting parties may not fix other amounts and other terms and conditions different from the legal ones. When the "Mesada" was awarded in the leading cases of Sta. Mesa Slipways vs. CIR (G.R. No. 4521) and Philippine Manufacturing Co. vs. National Labor Union (G. R. No. 4507) this Court did not act as an arbitrator nor do any arbitration.

"No Court of the Philippines shall have the power to set wages, rates of pay, hours of employment, or conditions of employment, etc. (Sec. 7, Rep. Act No. 875). What the law wants is that the fixing of conditions of labor be left to collective bargaining. The herein petitioner does not ask this Court to fix the condition of employment, since the law itself had already fixed it. They ask for the enforcement of the condition of employment that is already fixed.

If the mere adjudication of one month compensation amounts to fixing the condition of employment, no court, not even the Supreme Court nor the Court of First Instance can award it, because the law says "no court" at all can fix the conditions of employment. In such case, in what Court may the aggrieved party bring his grievances?

Moreover, as the counsel of the petitioner rightly says: "if this Honorable Court has the exclusive jurisdiction to enforce collective bargaining contracts (the contract is the law between the contracting parties) which was recognized by the Supreme Court in G. R. No. L-5649, P.S. United Mine Workers vs. Samar Mining Co., May 12, 1954, it necessarily follows that it had also jurisdiction over all labor dispute involving a right granted by law such as the payment of separation pay." (Memorandum by the petitioner, p. 7).

We conclude, therefore, that, when the one month separation pay was demanded by the drivers and the respondent refused to pay it, it became a labor dispute cognizable by this Court under Commonwealth Act No. 103.

III—As to the alleged union's lack of capacity to represent its members, the mere enumeration of the labor organization's rights by the new law does not alter the right of labor unions to represent its members recognized by Commonwealth Act No. 213 and sanctioned by a long practice in this jurisdiction.

WHEREFORE, the respondent's motion to dismiss is denied for lack of merit; and said respondent shall pay to each of said 360 drivers ₱120.00 as separation pay, based on 30 working days at ₱4.00 per day, which is the minimum wage fixed by law.

SO ORDERED.

Manila, Philippines, November 9, 1954.

(Sgd.) JOSE S. BAUTISTA
Associate Judge

II

The Catholic Church Mart Factory, Petitioner, vs. The Federation of Free Workers (Building Employees Association), Respondent, Case No. 156-ULP, March 17, 1954, Lanting, J.

1. COURT OF INDUSTRIAL RELATIONS; UNFAIR LABOR PRACTICE; RIGHT OF THE EMPLOYER TO INSTITUTE UNFAIR LABOR PRACTICE PROCEEDING AGAINST A LABOR ORGANIZATION. — Where the complaint alleges that on different dates the members of the respondent association coerced, threatened, and intimidated certain employees into joining said association in its strike against the said employer, it cannot be said that the employer has no right to initiate an unfair labor practice proceeding against the said labor organization because the acts complained of certainly affect its interest. Furthermore, the provision of Seciton 4 (b) (1) of Republic Act No. 875 which is alleged to have been violated is a verbatim copy of section 8 (b) (1) (a) of the National Labor Relations Acts of the United States, as amended by the Taft-Hartley Act. The Reports of Decisions and Order of the National Labor Relations Board abound with cases in which employers are the charging parties in cases of unfair labor practice falling under the provisions of the American law above adverted to. The propriety of the employer appearing as a party to an unfair labor practice proceeding in the United States, as far as can be ascertained, has not been successfully questioned.

2. IBID; IBID; COURT AS THE REAL COMPLAINANT IN AN UNFAIR LABOR PRACTICE PROCEEDING. — It can be also said that the real complainant in an unfair labor practice proceeding is the court itself. Section 5(b) of Rep. Act. No. 875 provides, among other things, that "Whenever it is charged by an offended party or his representative that any person has engaged or is engaging in any such unfair labor practice, the Court or any agency or agent designated by the Court must investigate such charge and shall have the power to issue and cause to be served upon such person a complaint stating the charges in that respect . . ." Under this provision an offended party or his representative may file a charge that a person has engaged or is engaging in unfair labor practice. Such charges must be investigated by this Court or any agency or agent designated by it and it is only after the investigation when the facts so warrant that a complaint is issued and caused to be served against the offending party. Since the camplaint is issued by this Court or its designated agency or agent, necessarily it is itself the complainant. Of course, this may give rise to the criticism that the law makes this Court the accuser,

prosecutor and judge all at the same time. To a certain extent, such criticism has a ring of validity. The same criticism was levelled against the National Labor Relations Board as it followed the procedure prescribed by the Wagner Act. Even then, the procedure has not been successfully challenged in the courts as violative of the due process clause of the constitution. It was partly to obviate the criticism that the Wagner Act was amended by the Taft-Hartley Act by creating the position of General Counsel who was made independent of the Board and given final authority in respect of invesitgation of charges, issuance of complaints and the prosecution of such complaints before the Board. It would be well if our Legislature would also introduce the same amendment to our law.

3. IBID; IBID; UNREGISTERED LABOR ORGANIZATION AS RESPONDENT IN AN UNFAIR LABOR PRACTICE CASE. — It can be stated as a general proposition that a labor organization need not be registered in order to come within the purview of Section 4(b), of the Industrial Peace Act. In the first place, if it was the intention of the legislature to make only registered labor organizations subject to the provisions of Sec. 4(b) it would have qualified the phrase "labor organization" with the word "legitimate".

In the second place, acts falling under said section are generally committed during the time that a labor union is in the process of formation or organization and therefore prior to its registration. If respondent's contention is correct, such acts would be beyond the power of this Court to prevent. Worse still, a labor organization may continually commit acts of unfair labor practice and yet, by simply not registering with the Department of Labor, render itself immune for the penalties and remedies provided in the Act. Such a result would violate the spirit and intent of the law.

In the third place, the argument that a labor organization cannot defend an action in its own name because it is not a legitimate labor organization would hold water only in cases of actions or suits in which the subject matter is the Union's property [See Sec. 24(d)] but not where the proceeding does not involve any of its properties. Furthermore, an unfair labor practice case initiated under Sec. 5 is not an action or suit at law nor is it a litigation between individual litigants for damages or other private redress. It is a public procedure for the attainment of public ends and not a private one to enforce a private right.

4. IBID; IBID; CRIMINAL COMPLAINT INVOLVING THE SAME ACTS IS NOT A BAR TO COMPLAINT FOR UNFAIR LABOR PRACTICE. — The pendency of a criminal complaint before the Fiscal's Office invovling the same acts alleged in the complaint constituting unfair labor practice, is not a bar to an unfair labor practice proceeding. An unfair labor practice case initiated under Sec. 5 of Rep. Act No. 875 is not criminal or penal in nature. The Court of Industrial Relations has already made a ruling to this effect in Case No. 4-ULP entitled, "La Mallorca Local 101 vs. La Mallorca Taxi" and it was sustained by the Supreme Court when it dismissed for lack of merit the appeal interposed by the respondent in that case. Furthermore, to support a finding of guilt in a criminal action, the degree of proof required is "beyond reasonable doubt." To sustain a finding that a person has engaged in unfair labor practice within the meaning to Sec. 4 of the Act, only substantial evidence is necessary. (See Sec. 6). Consequently, an acquittal in a criminal case would not necessarily result in dismissal of an unfair labor practice complaint based on the same acts because of the difference in the degree of proof required in each case. Since no criminal punishment can be meted out by this Court in the present proceeding, respondent has no cause to complain that it would be put in double ejopardy.

5. IBID; IBID; RIGHTS OF THE EMPLOYEES TO ABSTAIN FROM UNION ACTIVITIES IS GUARANTEED BY THE INDUSTRIAL PEACE ACT. — Sec. 3 of Rep. Act No. 875, as it is, fully guarantees to employees the right to refrain or abstain from any and all union activities as a corollary of its express guarantee that they shall have the right to form, join or assist labor organizations of their own choosing. This conclusion is supported by American precedents which have great persuasive effect because of the origin and antecedents of our law.

Jose W. Diokno, for the petitioner.

Ramon Garcia, for the respondent.

ORDER

This is a motion of counsel for respondent praying for the dismissal of the complaint filed in the above-entitled case by the Acting Prosecutor of this Court. The said motion is based on four grounds which shall presently be taken up in the order they appear in the motion.

1. That complaint is not prosecuted in the name of the real parties in interest.

It is claimed by the respondent that the employees Catholic Church Mart Factory had no interest in the present case and that the compalint should have been instituted by the employees who claim that unfair labor practices have been committed against them. The complaint alleges that on different dates the members of the respondent association coerced, threatened, and intimidated certain employees of the Catholic Church Mart Factory into joining said association in its strike against the said employer. Considering carefully the acts enumerated in the complaint, it cannot be said that the employer has no right to initiate the present proceeding because the acts complained of certainly affect its interest. Furthermore, the provision of Section 4 (b) (1) of Republic Act No. 875 which is alleged to have been violated is a verbatim copy of section 8(b) (1) (a) of the National Labor Relations Acts of the United States, as amended by the Taft-Hartley Act. The Reports of Decisions and Order of the National Relations Board abound with cases in which employers are the charging parties in cases of unfair labor practice falling under the provisions of the American law above adverted to. The propriety of the employer appearing as a party to an unfair labor practice proceeding in the United States, as far as can be ascertained, has not been successfully questioned.

It can be also said that the real complainant in this case is the court itself. Section 5(b) of Rep. Act No. 875 provides, among other things, that "Whenever it is charged by an offended party or his representative that any person has engaged or is engaging in any such unfair labor practice, the Court or any agency or agent designated by the Court must investigate such charge and shall have the power to issue and cause to be served upon such person a complaint stating the charges in that respect . . ." Under this provision an offended party or his representative may file a charge that a person has engaged or is engaging in unfair labor practice. Such charges must be investigated by this Court or any agency or agent designated by it and it is only after the investigation when the facts so warrant that a complaint is issued and caused to be served against the offending party. Since the complaint is issued by this Court or its designated agency or agent, necessarily it is itself the complainant. Of course, this may give rise to the criticism that the law makes this Court the accuser, prosecutor and judge all at the same time. To a certain extent, such criticism has a ring of validity. The same criticism was levelled against the National Labor Relations Board as it followed the procedure prescribed by the Wagner Act. Even then, the procedure has not been successfully challenged in the courts as violative of the due process clause of the constitution. It was partly to obviate the criticism that the Wagner Act was amended by the Taft-Hartley Act by creating the position of General Counsel who was made independent of the Board and given final authority in respect of investigation of charges, issuance of complaints and the prosecution of such complaints before the Board. It would be well if our Legislature would also introduce the same amendment to our law.

It would have been better if, in conformity with established American procedure, this case was entitled, "In the Matter of Catholic

Church Mart Factory and the Federation of Free Workers and Building Employees Association." The fact, however, that the complaint was not so titled does not render it fatally defective and it may serve as the basis for the continuation of the instant proceeding without causing substantial prejudice to the parties concerned.

The Court therefore finds the first ground as without merit.

2. The Federation of Free Workers is not the proper respondent in this unfair labor practice Case.

There are two main reason adduced in support of this ground. The first is that it is only the Building Employees Association, a legitimate labor organization, which has been representing the unionized employees of the Catholic Church Mart Factory and negotiating with said company, thereby implying that only said union could be made respondent and that "assuming that there is one or two officers of the Federation of Free Workers who committed alleged unfair labor practices then it should be only these persons who should be charged for unfair labor Practice and not the Federation of Free Workers." The second reason is that "the Federation of Free Workers is not a legitimate labor organization and therefore cannot defend an action in its own name."

As to the first reason, if it can be shown at the trial on the merit that certain officers of the Federation of Free Workers committed acts constituting unfair labor practice *as its agents*, then such acts would also be considered as the acts of the Federation, and an order may be issued requiring it to cease and desist from the unfair labor practice and to take such affirmative action as will effectuate the policies of the Industrial Peace Act. If it can be shown further that the Building Employees Association is only an affiliate of the Federation of Free Workers, and that both of them committed acts of unfair labor practice either by themselves or through their agents, both may be made subject to the remedies provided in the Act.

The Court also considers the second reason as untenable. In the first place, if it was the intention of the legislature to make only registered labor organizations subject to the provisions of Sec. 4(b) it would have qualified the phrase "labor organization" with the word "legitimate".

In the second place, acts falling under said section are generally committed during the time that a labor union is in the process of formation or organization and therefore prior to its registration. If respondent's contention is correct, such acts would be beyond the power of this Court to prevent. Worse still, a labor organization may continually commit acts of unfair labor practice and yet, by simply not registering with the Department of Labor, render itself immune for the penalties and remedies provided in the Act. Such a result would violate the spirit and intent of the law.

In the third place, the argument that the Federation of Free Workers cannot defend an action in its own name because it is not a legitimate labor organization would hold water only in cases of actions or suits in which the subject matter is the Union's property [Sec. 24(d)]. The present proceeding does not involve any of its properties. Furthermore, an unfair labor practice case initiated under Sec. 5 is not an action or suit at law nor is it a litigation between individual litigants for damages or other private redress. It is a public procedure for the attainment of public ends and not a private one to enforce a private right.

Summing up, it can be stated as a general proposition that a labor organization need not be registered in order to come within the purview of Sec. 4 (b) of the Act.

3. The alleged acts of unfair labor practice complained of are the subject of criminal proceedings in the Fiscal's Office of the Cit yof Manila.

The pendency of a criminal complaint before the Fiscal's Office involving the same acts alleged in the present complaint as constituting unfair labor practice is being invoked as a bar to the instant proceeding. The nature of an unfair labor practice proceeding has been hereinabove dealt with and it would be superfluous to discuss it again at this juncture. Suffice is to state that an unfair labor practice case initiated under Sec. 5 of Rep. Act No. 875 is not criminal or penal in nature. This Court has already made a ruling to this effect in Case No. 4-ULP entitled, "La Mallorca Local 101 vs. La Mallorca Taxi" and it was sustained by the Supreme Court when it dismissed for lack of merit the appeal interposed by the respondent in that case. Furthermore, to support a finding of guilt in a criminal action, the degree of proof required is "beyond reasonable doubt." To sustain a finding that a person has engaged in unfair labor practice within the meaning to Sec. 4 of the Act, only substantial evidence is necessary. (See Sec. 6). Consequently, an acquittal in a criminal case would not necessarily result in dismissal of an unfair labor practice complaint based on the same acts because of the difference in the degree of proof required in each case. Since no criminal punishment can be meted out by this Court in the present proceeding, respondent has no cause to complain that it would be put in double jeopardy.

4. The complaint states no cause of action.

In connection with this ground, respondent argues that granting, without admitting, that the acts enumerated in the complaint constitute restraint or coercion under Sec. 4(b) (1) of the Act, they do not constitute unfair labor practice on the part of a labor organization or its agents. As previously pointed out, Sec. 4 (b) (1) was copied from Sec. 8(b) (1) (a) of the National Labor Relations Act or the Wagner Act as amended by the Taft-Hartley Act. However, as correctly pointed out by counsel for respondent, Sec. 3 of our law was copied from Sec. 7 of the Wagner Act as originally enacted, that is, without the following Taft-Hartley amendatory provision: "and shall also have the right to refrain from any or all such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a) (3)." On the basis of this difference between our law and the Taft-Hartley Act, respondent argues that inasmuch as Sec. 3 of our law does not expressly guarantee to employees the right to refrain from union activities, the violaiton of such right does not constitute unfair labor practice on the part of a labor organization or its agents.

After a very careful examination of this issue, this Court is of the opinion that Sec. 3 of Rep. Act No. 875, as it is, fully guarantees to employees the right to refrain or abstain from any all union activities as a corollary of its express guarantee that they shall have the right to form, join or assist labor organizations of their own chosing. This conclusion is supported by American precedents which have great persuasive effect because of the origin and antecedents of our law.

> "Although the latter right of abstention from union affiliation was not contained in the original act and was newly introduced in legislative form by the amended Act, *this right was freely recognized by the courts prior to the enactment of the amended Act.*" (Rothenberg, Law of Labor Relations, p. 353, citing the cases of Tri-Plex Shoe Co. vs. Cantor, 25 F. Supp. 996; Magnolia Petroleum Co. vs. N.L.R.B., 115 F. (2nd) 1007; DeBardeleben vs. N.L.R.B., 135 F. (2nd) 13; N.L.R.B. vs. Superior Tanning Co., 117 F. (2nd) 881). "It has long been held that in making their choice, whatever it be, whether to join an existing affiliated or unaffiliated union, or to form a new union, *or in choosing to abstain from joining or aiding any union, the employees are entitled to the full protection of the Act.*" (Supra, citing the cases of N.L.R.B. vs. Sterling Motors Co., 109 F. (2nd) 194; Consolidated Edison Co. vs. N.L.R.B., 305 U.S. 197; and N.L.R.B. vs. Schwarzt, 146 F. (2nd) 773).

It will thus be readily seen that the Taft-Hartley amendment protecting the right of employees to refrain from union activities was only a legislative reiteration of a long-established doctrine laid down by the courts.

WHEREFORE, the motion to dismiss is denied and let the Clerk of Court set the case for hearing on the merits at 8:30 o'clock a.m. and 2:00 p.m. on March 22, 23, and 24, 1954.

SO ORDERED.

Manila, Philippines, March 17, 1954.

(Sgd) JUAN L. LANTING
Associate Judge