102 Phil. 1080

[G.R. No. L-10091. January 29, 1958]

BOY SCOUTS OF THE PHILIPPINES, PETITIONER, VS. JULIANA V. ARAOS, RESPONDENT.

D E C I S I O N

MONTEMAYOR, J.:

This is a petition to review on certiorari the decision of the Court of Industrial Relations of October 10, 1955 and the resolution of said court en banc of December 5, of the same year, denying the motion for reconsideration of the decision. Because of the view we take of the case, we deem it unnecessary to state the facts in detail.

The petitioner, Boy Scouts of the Philippines, a public corporation created under Commonwealth Act 111, is a civic and benevolent institution engaged in the promotion and development of character, patriotism, courage, self-reliance, and kindred virtues in the boys of the country. Section 4 of the Act of creation states its objectives as "solely of a benevolent character and not for pecuniary profit". Respondent Juliana V. Araos worked with the petitioner as scout executive, holding such position and rank from 1948 up to her dismissal from the service on June 1, 1954. Respondent, during her incumbency, or-ganized the BSP Employees Welfare Association, a sort of labor organization or union of employees working in the Boy Scouts of the Philippines. She became president thereof. On January 29, 1954, respondent filed charges with the National Bureau of Investigation against Exequiel Villacorta, Chief Scout Executive, for alleged "anomalous actuations of the said person in the performance of his duties in the said office." On February 1, 1954, respondent addressed a letter to the President of the Boy Scouts of the Philippines, Jorge B. Vargas, bringing to his attention the charges she had filed against Villacorta with the NBI. She also sent and distributed copies of her charges to each and every member of the Executive Board of the Boy Scouts of the Philippines, to the Presidential Complaint and Action Committee, Malacañang, and to the President of the Philippines, to scouters all over the Philippines, and

to all the delegates to the 15th Annual Meeting, National Council, Boy Scouts of the Philippines. It is said that the NBI found Villacorta guilty of the charges filed by Araos.

Thereafter, H. B. Reyes, Chairman of the Personnel Committee of the BSP, on May 18, 1954, addressed a letter to respondent, which is self-explanatory, and which we quote below:

> "Dear Madam:
>
> "A report and complaint have been received by President Jorge B. Vargas, and the National Executive Board of the Boy Scouts of the Philippines, to the effect that you have engaged systematically in activities inimical to the best interests of the Boy Scouts of the Philippines, with total disregard and in defiance of the duly-constituted authorities of the Boy Scouts of the Philippines, consisting of the following acts:
>
> "a. That you have filed a complaint with a request for an immediate investigation of Mr. Exequiel Villacorta, Chief Scout Executive of the Boy Scouts of the Philippines, with the President's Complaints and Action Commission (PCAC) directly, and with the National Bureau of Investigation, and have only furnished copy thereof to the President of the Boy Scouts of the Philippines.
>
> "b. That you have reproduced the same complaints and distributed copies thereof to various newspaper offices in the City of Manila, and sent copies thereof to various Scouters in the City of Manila and the provinces, notwithstanding that you knew that the complaints were under investigation by the Committee on Personnel of the Boy Scouts of the Philippines and the NBI.
>
> "c. That notwithstanding your knowledge and information that the Committee on Personnel has your complaints under consideration, and that the report of

the NBI agent, incharge of the case, has not been submitted to nor received by the Boy Scouts of the Philippines, you have distributed copies of the same complaints to the delegates of the 15th National Council Meeting of the Boy Scouts of the Philippines, and/or mailed copies thereof to the delegates.

"d. That immediately after the closing of the 15th National Council Meeting and upon learning that no delegates had taken up the subject matter of your complaints at the Council Meeting, you proceeded to see Mr. Rafael Yabut, the radio commentator, and furnished him copy of the same charges which were under investigation with the intention to have those charges aired over the radio, as in fact they were made the subject matter of Mr. Yabut's broadcast in the morning of May 12, 1954.

"By instruction of the National Executive Board, you are hereby requested to submit your reply to the above specification of charges, and to explain within 72 hours why disciplinary action should not be taken against you for your censurable conduct against the best interests of the Boy Scouts of the Philippines and in disregard and defiance of the duly-constituted authorities of the Organization.

"Respectfully yours,
"For the National Executive Board

"(Sgd.) H. B. Reyes
Chairman
Personnel Committee"

Respondent answered the letter, practically admitting the activities and acts imputed to her said to be inimical to the interests of the BSP, but trying to justify the same.

On May 26, 1954, the Personnel Committee of the BSP, composed of H. B. Reyes, Gabriel A. Daza, Enrique A. Lolarga, Sergio Bayan, F. E. V. Sison, Eugenio Padua, and Teodoro K.

Molo, the latter reserving his vote, filed a report with the National Executive Board of the BSP. After discussing the merits of the case, the Committee came "to the unanimous conclusion that Mrs. Juliana V. Araos is guilty as charged Jind that her present conduct, judged in the light of her past record, is such that her continuation in the service of the scouting movement in the Philippines is highly prejudicial to its interest and therefore, recommends that she be dismissed from the service effective immediately." Presumably acting upon, said report and recommendation, BSP President Vargas, on June 1, 1954, sent a letter to respondent dismissing her from the service of the BSP.

On August 3, 1954, respondent filed charges against the BSP in the Court of Industrial Relations for unfair labor practice, alleging that her dismissal was in violation of Section 4, Subsection (a), paragraphs 4 and 5 of Republic Act No. 875, claiming that she had been dismissed due to her union activities, in filing charges against the Chief Scout Executive. On September 28 1954, acting prosecutor Ilagan of the CIR filed a formal complaint in the case. On October 4, 1954, the BSP filed a motion to dismiss the case among other grounds that the CIR had no jurisdiction over the case for the reason that the BSP was a civic, charitable, humanitarian and patriotic enterprise, not created for profit and consequently, there could be no labor dispute over which the CIR may exercise jurisdiction. By order of October 14, 1954, the CIR deferred action on the motion to dismiss, until trial, so that all questions of law and fact may be determined in a single proceeding and decided in a single decision. After hearing, Judge Jose S. Bautista, Acting Presiding Judge of the CIR, rendered decision on October 10, 1955, the dispositive part of which reads as follows:

> "In view of the foregoing considerations, the respondent is hereby ordered:
>
> 1. To cease and desist from dismissing any of the employees for having filed charges against it;
>
> 2. To reinstate Mrs. Juliana V. Araos to her former or equivalent position with back pay, without prejudice to all privileges accruing in her favor, from June 1, 1954 up to her reinstatement;

> 3. To post a copy of the dispositive portion of this decision in its bulletin board, the same to remain posted therein for thirty (30) days from the date of this decision becomes final and executory."

Acting upon a motion for reconsideration, Judge Bautista with Associate Judges V. Jimenez Yanson, and Arsenio I. Martinez, concurring, denied the motion for reconsideration, while Associate Judge Juan L. Lanting, took no part. As already stated, petitioner BSP is appealing from that decision and resolution.

We propose to decide the present case exclusively on the question of jurisdiction, regardless of the merits of the case.

Is the BSP an employer as contemplated by Republic Act No. 875, and was the controversy between it and the respondent a labor or industrial dispute cognizable by the Court of Industrial Relations?

In the case of U.S.T. Hospital Employees Association vs. Santo Tomas University Hospital, 95 Phil., 40, which involved the question of whether the employees of said hospital were entitled to extra compensation for working at night and whether the hospital was governed by the Eight Hour Labor Law, Commonwealth Act No. 444, this Court, through Mr. Justice Pablo, sustained the order of the Court of Industrial Relations dismissing the action filed by the U.S.T. Hospital Employees Association, for lack of jurisdiction, and we held that inasmuch as the Santo Tomas University Hospital was not established for profit or gain, but on the contrary was organized for the elevated purpose of serving suffering humanity, the posts occupied by the employees and laborers of the hospital may not be considered as industrial employment, and that their controversy with the hospital regarding additional pay cannot be considered as an industrial dispute; consequently, the action filed by said laborers and employees was not within the jurisdiction of the Court of Industrial Relations.

The doctrine laid down in the hospital case above-mentioned was reiterated in the case of San Beda College vs. National Labor Union, et al., 97 Phil., 787, 51 Off. Gaz. 5636, where this Court, through Mr. Justice Sabino Padilla, held that inasmuch as the San Beda College was not operated and maintained for profit or for purpose of gain, the persons working in said college cannot be deemed to be industrial employees and consequently, any controversy or dispute they may have with the College in connection with or arising out of

their employment does not come within the purview of Commonwealth Act 103, as amended by Commonwealth Act Nos. 254 and 559.

In the cases of Quezon Institute vs. Velasco, and Quezon Institute vs. Paraso, 97 Phil., 905, 51 Off. Gaz. (12) 6175, respectively, this Court, through Mr. Justice Jugo, held, citing the Santo Tomas University Hospital case (supra), that "with greater reason the Quezon Institute should be declared as an institution not established for gain within the meaning of the Workmen's Compensation Law", and reversed the orders of the Workmen's Compensation Commissioner requiring the Quezon Institute to pay indemnities to two employees of said Institute who contracted tuberculosis due to their work there, were incapacitated for certain periods of time, and later filed claims with the Workmen's Compensation Commission.

Again, in the case of Baselides Marcelo, et al., vs. Philippine National Red Cross, 101 Phil., 544, where the employees of the Red Cross filed an action in the Court of First Instance of Manila, claiming overtime pay, including payment for services rendered on Sundays and holidays, and where the trial court, acting upon a motion to dismiss, dismissed the complaint for lack of cause of action on the ground that the Eight Hour Labor Law, Commonwealth Act No. 444, did not apply to said employees of the Red Cross, this Court affirmed the order of dismissal, and through Mr. Justice Alfonso Felix, we said that the Philippine National Red Cross performs humanitarian work and is not engaged in an industry or occupation for purposes of gain, and consequently, its employees cannot demand as a matter of right the application to them of the Eight Hour Labor Law.

In the course of the discussion of this case, particularly, the aforementioned cases of the Santo Tomas Hospital, San Beda College, Quezon Institute, and Philippine National Red Cross, supra, it was claimed that none of these cases is in point, for the reason that they do not touch upon or involve the jurisdiction of the Industrial Court. Strictly speaking, the claim is correct. However, these cases cited not exactly to support the theory that the Industrial Court has no jurisdiction over the present case, but rather to show that this high Tribunal has laid down the doctrine that labor legislation, like Commonwealth Act 103, as amended, creating the Court of Industrial Relations, the Eight-Hour Labor Law and the Workmen's Compensation Act, have no application to institutions organized and operated for charity, education, etc., and not for profit or gain, as far as the relationship between the management and its employees or laborers is concerned; that despite the solicitude shown by the Legislature for labor and its policy to promote the welfare of employees and laborers, nevertheless, it did not see fit or deem it necessary to extend to the workers in these

charitable and educational organizations, the benefits of extra compensation for overtime work and work on Sundays and holidays, and for compensation for injuries suffered or illness contracted or aggravated, arising out of and in the course of employment; and that by analogy, the Industrial Peace Act, Republic Act 875, also a labor law, has no application to the Boy Scouts of the Philippines.

It was also asserted that our decisions in the cases of Metropolitan Water District Workers Union vs. Court of Industrial Relations, 91 Phil., 840, and Government Service Insurance System vs. Castillo, 98 Phil., 878, 52 Off. Gaz. (9) 4269, somewhat weaken and adversely affect our ruling in the Santo Tomas Hospital and San Beda College cases, for the reason that; in the two cases involving the instrumentalities of the Government, neither engaged in the production of goods nor in seeking monetary gain, the Metropolitan Water District having been established to render public service by furnishing an adequate water supply and sewerage service and the Government Service Insurance System, to promote the efficiency and welfare of the employees of the Philippine Government, still we held that the Industrial Court had jurisdiction under Commonwealth Act 103, as amended, to settle disputes between said entities and their employees. The seeming conflict in our rulings in the two sets of cases can readily be explained. In the first place, the Metropolitan Water District and the Government Service Insurance System are government corporations or entities engaged not in governmental functions, but rather in proprietary functions of the Government, and these entities are expressly not excluded from the provisions of the Industrial Peace Act, Republic Act 875, under Section 11 thereof, and that consequently, the policy of the Government against strikes for the purpose of securing changes or modifications in the terms and conditions for employment of employees in the Government, including the political subdivisions thereof, does not apply. In the second place, as regards the Metropolitan Water District it cannot be truly said that it does not seek monetary gain. For the water and sewerage service it renders, it charges compensation, sometimes at a rate which in the opinion of the consumers is above the value of said service, resulting in general complaints and petitions for reduction of rate. This profit or gain over the expenses incurred by the Metropolitan Water District is utilized to expand its facilities and resources, so that after many years, the property, resources and assets of the Metropolitan Water District will be far in excess and beyond its original capital or investment, and any time or when this entity is dissolved or its functions are taken over by a private entity, which is possible and legally permissible, and its assets are bought as an entity, there would be a sizeable, if not a tremendous gain for the Government. Besides, any increase in pay, extra compensation, bonus, etc., which may be demanded by and granted its employees and

laborers, if they cannot be taken from or absorbed by the income and profits, can easily be passed on to its customers by increasing its rates. Surely, the Metropolitan Water District can in no sense be considered a charitable, benevolent, or philanthropic institution. And as to the Government Service Insurance System, it is well known that it invests its fund derived from the contributions of government employees, in huge amounts and at substantial interest, and the profits made therefrom are in part distributed as dividends among its insured. Surely, said insurance entity does not operate for charity, but in practice operates for profit or gain for the benefit of those insured by it. This, aside from the fact that insurance has been generally considered and even held by the courts to be a business.

Now, may the Boy Scouts of the Philippines, which is admittedly organized and operated not for profit or gain, be considered as engaged in an industry so that its relation with its employees may be governed by the Industrial Peace Act, Republic Act No. 875, that the dismissal of one of its employees for alleged union activities may be considered as unfair labor practice, within the meaning of said Industrial Peace Act, and consequently, cognizable by the Court of Industrial Relations?

The main issue involved in the present case is whether or not a charitable institution or one organized not for profit but for more elevated purposes, charitable, humanitarian, etc., like the Boy Scouts of the Philippines, is included in the definition of "employer" contained in Republic Act 875, and whether the employees of said institution fall under the definition of "employee" also contained in the same Republic Act. If they are included, then any act which may be considered unfair labor practice, within the meaning of said Republic Act, would come under the jurisdiction of the Court of Industrial Relations; but if they do riot fall within the scope of said Republic Act, particularly, its definitions of employer and employee, then the Industrial Court would have no jurisdiction at all.

During the discussion of this case, it was claimed that our Industrial Peace Act is partly modelled after the National Labor Relations Act, known as the Wagner Act; that said Wagner Act contains similar definitions of "employer" and "employee"; and that in a number of cases decided by the Federal courts, including the United States Supreme Court, interpreting and applying said Wagner Act, it has been consistently and uniformly held that non-profit organizations and charitable institutions fall within the scope of the term employer within the meaning of the Wagner Act, ond that consequently, if we are to follow said judicial authorities, we must perforce hold that a non-profit organization like the Boy Scouts of the Philippines comes within the scope of the definition of employer under our Industrial Peace Act, and so any unfair labor practice committed by the management of said

institution would come within the jurisdiction of the Court of Industrial Relations. The point raised is quite important and deserves extended discussion and explanation.

For purposes of reference, we shall reproduce the definitions of "employer" and "employee" in the Wagner Act and the corresponding definitions under Republic Act 875:

WAGNER ACT	REPUBLIC ACT 875
"The term 'employer' includes any person acting in the interest of an employer, directly or indirectly, but shall not include[the United States or any State or political subdivision thereof, or any person subject to the Railway Labor Act, as amended from time to time], or any labor organization (other than when acting as an employer) , or anyone acting in the capacity of officer or agent of such labor organization." [Sec. 2(2)]	"The term 'employer' includes any person acting in the interest of an employer, directly or indirectly but shall not include any labor organization (otherwise than when acting as an employer) or any one acting in the capacity of officer or agent of such labor organization." Sec. 2 (c)]
"The term 'employee' shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, [but shall not not include any individual employed as an agricultural laborer or in the domestic service of any family or persons at his home, or any individual employer by his parent or spouse.]" [Sec. 2 (3)]	"The term 'employee' shall include any employee and shall not be limited to the employee of a particular employer unless the Act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice and who has not obtained any other substantially equivalent and regular employment." [Sec. 2 (d)]

(Note: The portions in the Wagner Act included in brackets ([ ]) are not found in Republic Act 875.)

For purposes of reference, we shall reproduce the definitions of "employer" and "employee" in the Wagner Act and the corresponding definitions under Republic Act 875: By comparison, it will be observed that the Wagner Act's definition of "employer" exempts or excludes the United States or any State or political subdivision thereof, or any person subject to the Railway Labor Act. As a matter of fact, the Labor Management Relations Act of 1947, known as the Taft-Hartley Act, amending the Wagner Act, introduced additional exemptions from the term "employer", such as Government corporations, Federal banks,

and particularly corporations operating hospitals, and from the term “employee” additional exemptions,

such as individuals employed as independent contractors and supervisors.

On the other hand, our Industrial Peace Act’s definition of “employer” contains no such exemptions. The obvious implication is that the Wagner Act and later as amended, made an express exemption or exception in favor of all those entities, such as the United States or any States or political subdivision, which it wanted to be excluded, so that any organization, entity, or institution not so included in the exemption must naturally fall under the definition of employer. Naturally, the Federal courts in interpreting this part of the Wagner Act and finding that the exemption or exception did not expressly mention charitable or non-profit institutions, were constrained to hold that said institutions were considered employers under the Wagner Act.

The same thing may be said of the term “employee” under said Wagner Act. It contains several exemptions, such as any individual employed in the domestic service, or any person employed by his parent or spouse. Such exemptions are absent under the term “employee” used in our Industrial Peace Act; and yet those exempted under the Wagner Act’s definitions of employer and employee are obviously and clearly entitled to exception or exemption under our own Industrial Peace Act. For instance, there can be no question that under our Industrial Peace Act, the Republic or any political division or subdivision, like a province or municipality, must and should also be excluded from the definition of employer. Similarly, under the term “employee” of our law, agricultural laborers or individuals employed in the domestic service, like private or domestic drivers, housemaids, kitchen help, etc., should be excluded. From this, we can logically conclude that our Legislature, in drafting the law, particularly the portion defining employer and employee, did not deem it necessary or advisable to make the obvious and necessary exemptions or exceptions, but left it to the courts for interpretation and application. For this reason, the cases decided by the United States Federal courts, interpreting the Wagner Act as regards employer and employee, are not applicable.

But there is a more important and fundamental reason why the Federal cases cited as ruling against our interpretation of Republic Act 875, cannot be considered applicable, even relevant. The Wagner Act, a Federal legislation, was promulgated for a specific purpose—to eliminate or diminish as much as possible the causes of labor disputes which may obstruct or interfere with interstate and foreign commerce.

Incidentally, it should be stated that the only justification for the United States Federal Government to promulgate the Wagner Act is that it dealt with and involved interstate commerce, otherwise, the Federal Congress would have no jurisdiction or right to act at all. Labor management relations involving institutions whose activities are entirely and exclusively within the State of the Union are governed by State legislation, or the State Labor Relations Act.

The very first part of said Wagner Act, which we reproduce below, is self-explanatory:

> "An Act to diminish the causes of labor disputes burdening or obstructing *interstate and foreign commerce*, to create a Na-tional Labor Relations Board, and for other purposes." (Italics supplied.)

The first, second, third, and fourth paragraphs of said Wagner Act, which we reproduce below, also speak of commerce and flow of commerce:

> "Section 1. The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing *commerce* by (a) impairing the efficiency, safety, or operation of the instrumentalities of *commerce*; (b) occurring in the current of *commerce*; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of *commerce*, or (d) causing dimunition of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

> "The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially

burdens and affects the *flow of commerce*, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

"Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards *commerce* from injury, impairment or interruption, and promotes the flow of *commerce* by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.

"It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection." (Italics supplied.)

And paragraph six of Section 2 of the Wagner Act defines the term "commerce":

"(6) The term 'commerce' means trade, traffic, commerce, transportation or communication *among the several States*, or between the District of Columbia or any Territory of the *United States and any State or other Territory*, or between any *foreign country* and any *State, Territory*, or the District of Columbia, or within the District of Columbia or any territory, or between points in the same State but through any *other State* or any Territory or the District of Columbia or any *foreign country*." (Italics supplied.)

In other words, the main concern of the United States Congress in promulgating the Wagner Act was to eliminate the causes of the interruption or obstruction to the free flow of commerce among and between the States and between the United States and foreign countries, so that any institution, regardless of the purpose of its organization and the objective of its operation, whether for profit, or whether charitable, benevolent, philanthropic, as long as its activities cross state lines, and that any-labor dispute between it and its employees may affect, obstruct, or interrupt interstate commerce or foreign commerce, must necessarily be considered as an employer within the meaning of the Wagner Act, and subject to the jurisdiction of the National Labor Relations Board. That is the reason why in the Federal cases cited, specially the cases of The Polish National Alliance vs. N.L.R.B. 322 U.S 643, and the N.L.R.B. vs. Central Dispensary Emergency Hospital, (1944) 135 F. 2d 852, the courts therein held that the fraternal and benefit society and hospital involved therein were subject to the provisions of the Wagner Act. In the first case, the National Labor Relations Board found that the Police National Alliance was engaged in unfair labor practice. On a petition for review and a cross-petition of the Board for enforcement, the Circuit Court of Appeals sustained the order, and on appeal by certiorari the United States Supreme Court found and said the following:

> "The Polish National Alliance is a fraternal benefit society providing death, disability, and accident benefits to its members and their beneficiaries. Incorporated under the laws of Illinois, it is organized into 1,817 lodges scattered through twenty-seven States, the District of Columbia, and the Province of Manitoba, Canada. As the "largest fraternal organization in the world of Americans of Polish descent," it had outstanding, in 1941, 272,897 insurance benefit certificates with a face value of nearly $160,000,000. Over 76% of these certificates were held by persons living outside of Illinois. At the end of that year, petitioner's assets totalled about $30,000,000, in cash, real estate in five States, United States Government bonds, foreign government bonds, bonds of various States and their political subdivisions, railroad, public utility, and industrial bonds, and stocks. From its organization in 1880 until the end of 1940, the Alliance spent over $7,000,000 for charitable, educational, and fraternal activities among its members. During the same period, it paid out over $38,000,000 in mortuary claims."

"Petitioner directs from its home office in Chicago a staff of over 225 full and parttime organizers and field agents in twenty-six States whose traveling expenses are borne by Alliance and who receive commissions for new memberships. Since its 1939 convention, Alliance has admited no more 'social members'. Thereafter, all applicants have been required to buy insurance certificates providing various types of life, endowment, and term coverage. These policies contain the typical loan, cash surrender value, optional settlement, and dividend provisions. Petitioner spent over $10,000 for advertising outside of Illinois during-1941. It employs a Geogia credit company to report on the financial standing and character of the applicants, and reinsures substandard risks with an Indiana company.

"Alliance lodges are organized into 190 councils, 160 of which are outside the State of Illinois. The councils elect delegates to the national convention, and it in turn elects the executive and administrative officers. The Censor of Alliance is its ranking officer and he appoints an editorial staff which publishes a weekly paper distributed to members. Of the 6,857,556 copies published in 1941, about 80% were mailed to persons living outside of Illinois.

"This summary of the activities of Alliance and of the methods and facilities for their pursuit amply shows the web of money-making transactions woven across many State lines. An effective strike against such a business enterprise, centered in Chicago but radiating from it all over the country, would as a practical matter certainly burden and obstruct the means of transmission and communication across these state lines. Stoppage or disruption of the work in Chicago involves interruptions of the steady stream, into and out of Illinois, of bills, notices, and policies, the payments of commissions, the making of loans on policies, the insertion and circulation of advertising material in newspapers, and its dissemination over the radio. The effect of such interruptions on commerce is unmistakable. The load of interstate communication and transportation services is lessened, cash necessary for interstate business becomes unavailable, the

business, interstate, of news-papers and radio stations suffer. Nor is this all. Alliance, it appears, plays a credit role in interstate industries, railroads, and other public utilities. In 1941, it acquired securities in an amount in excess of $11,000,000, and sold or redeemed securities costing-more than $7,500,000. Financial transactions of the magnitude can-not be impeded even temporarily without affecting to an extent not negligible the interstate enterprises in which the large assets of Alliance are invested. That such are the substantial effects on interstate commerce of dislocating labor practices by insurance companies was established before the Labor Board in at least thirteen comparable situations. The practical justification of such a conclusion has not heretofore been challenged. Considerations like these led the Board to find that petitioner's practices 'have a close, intimate, and substantial relation to trade, traffic, and com-merce among the several States and tend to lead to labor disputes burdening and obstructing' commerce,' and were therefore 'unfair labor practices affecting commerce within the meaning of Section 2(6) and (7),' and as such, prohibited by Section 10 of the Wagner Act, 29 USCA, Section 160, 9 FCA Title 29, Section 160."

* * * * * * *

"We have said enough to indicate the ground for our conclusion that the Board was not unjustified in finding that the unfair labor practices found by it would affect commerce. And the undoubted fact that Alliance promotes, among Americans of Polish descent, interest in and devotion to, the contributions that Poland has made to civilization does not subordinate its business activities, to insignficance. Accordingly, the Board could find that its cultural and fraternal activities do not withdraw Alliance from amenability to the Wagner Act." (Polish National Alliance vs. National Labor Relations Board, 322 U.S. 643; pp. 644-647, 648).

In the second case of the National Labor Relations Board vs. Central Dispensary and Emergency Hospital, the National Labor Relations Board certified to the United States Court of Appeals, District of Columbia, the enforcement of its order requiring respondent

Hospital to bargain collectively with Building Service Employees' International Union, exclusive representative of respondent's employees. Respondent attacked the order on the ground that it is a non-profit charitable institution not engaged in trade, traffic, commerce, or transportation within the meaning of the National Labor Relations Act. The United States Court of Appeals, in granting the petition of the Board, held that respondent Hospital was not exempted from the operation of the Act, for the reason that its activity involved the sale of medical services and supplies for which it received about $600,000 a year and £it purchased from commercial houses material with the value of about $240,000; it em-ploys about 230 persons for non-professional services and maintenance work, and 120 technical and professional em-ployees. According to the court, "such activities are trade and commerce and the fact that they are carried on by a charity hospital is immaterial to a decision of this issue." (Italics supplied.) It cited the case of American Medical Association vs. United States, wherein the same court held that the sale of medical and hospital services for a fee has been considered as trade by English and American common law cases, going back to 1793.

On the applicability of the Wagner Act and the Taft-Hartley Act amending it, and the jurisdiction of the Na-tional Labor Relations Board therein created, Rothenberg in his book on Labor Relations, p. 311, says the following:

> "D. *Interstate Commerce as a Test of Board's Jurisdiction*.
>
> "Whether one adopts the view that the primary purpose of the Act is to aid interstate commerce or the alternative view that the basic state commerce, under either position the elements of interstate commerce is an integral and indispensable consideration, and which as we shall shortly see, is one of the deciding factors in questions of applicability of the Act and jurisdiction of the Board in a given case.
>
> "If the Act is scrutinized carefully, it will be found that the applicability of the Act itself and the jurisdiction of the Board is predicated on two elements: first, a

> proper subject matter, i.e., rights, wrongs or duties comprehended by the Act; second, *the involvement of interstate commerce.*
>
> "The first of these two elements, *viz*: a proper subject matter, will be given consideration at a later and appropriate point.
>
> "With respect to the matter of the requirement of an involvement of interstate commerce, it must be remembered that this Act was passed by Congress in exercise of its right to control and regulate interstate commerce and it was on that basis that the constitutionality of the original Act was upheld. *Accordingly, to maintain its constitutional integrity, the Act can have application only to cases in which there is not only a proper subject matter, but also an involvement of interstate commerce."* (Italics supplied.)

In our jurisdiction, however, the situation is entirely different. There is no interstate commerce to be considered. Republic Act 875 is concerned only with regulating relations between management and labor, not commerce or the flow of commerce. And so we feel free to interpret the term "employer" in accordance with the ruling spirit that pervades the whole Industrial Peace Act. We are convinced that this Act refers only to organizations and entities created and operated for profit, engaged in a profitable trade, occupation, or *industry*. The law itself is 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 (6), 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 explanation. Surely, institutions like hospitals, the National Red Cross, Boy Scouts of the Philippines, Gota de Leche, Philippine Tuberculosis Society, and other organizations whose purpose is not to make profit or gain, but to aid in alle-viating the suffering of humanity and in developing character in the youth of the land, in furnishing milk to babies of the indigent, etc., can hardly be considered industries.

Republic Act No. 875 is patterned after the labor relations legislation in the United States of America, particularly, the Federal Labor Relations Act, including the labor relations acts of the different States. Naturally, American authorities interpreting said American labor legislation are applicable and may be considered by us with profit.

The case of The Petition of the Salvation Army (U.S.A.), 36 A. 2d 479, involved the. application of the Pennsylvania Labor Relations Act, and particularly, whether the Salvation Army was governed by it. A union of hotel and restaurant employees filed a petition with the Labor Relations Board, asserting that the Salvation Army was engaged in the hotel and restaurant business at The Evangeline Residence in Pittsburgh, employing approximately twenty-eight employees and it had declined to bargain collectively, and asking that the Board investigate the matter. The petition was resisted by the Salvation Army. After hearing, the Board was resisted by the Salvation Army. After hearing, the Board decided that the Salvation Army was an employer within the meaning of the State Labor Relations Act, and ordered an election to ascertain repre-sentatives for the purpose of collective bargaining. Upon exceptions, the Board upon hearing, dismissed the exceptions and reaffirmed the order. A petition for review was presented to the Court of Common Pleas, and after hearing, the majority of the court, with one dissent, affirmed the order. Upon appeal to the Supreme Court of Pennsylvania, the latter cited the case of Western Pennsylvania Hospital, where it was decided that the State Labor Relations Act did not apply to non-industrial disputes. Then the court proceeded to analyze the Labor Relations Act of the State, saying that said Act was designed to protect the rights of employees to organize and bargain collectively and by express terms the Act must be liberally construed. We quote:

> "Finding and Policy, (a) Under prevailing- economic conditions, individual employees do not possess full freedom of association or actual liberty of contract. Employers in many instances, organized in, corporate or other forms; of ownership associations with the aid of government authority, have superior economic power in bargaining with employee. This growing inequality of bargaining power substantially and adversely affects the general welfare of the State by creating variations and instability in competative wage rates and working- conditions within and between industries, and depressing the purchasing power of wage earners, thus—(1) creat-ing sweat-shops with their

> attendant dangers to the health, peace, and morals of the people; (2) increasing the disparity between production and consumption; and (3) tending to produce and aggravate recurrent business depressions. The denial by some employers of the right of employes to organize and the refusal by employers to accept the procedure of collective bargaining tend to lead to strikes, lockouts, and other forms of industrial strife and unrest, which are inimical to the public safety and welfare, and frequently endanger the public health.
>
> "(b) Experience has proved that protection by law of the right of employes to organize and bargain collectively removes certain recognized sources of industrial strife and unrest, encourages practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours or other working conditions, and tends to restore equality of bargaining power between employers and employees. * * * "

The Pennsylvania Supreme Court arrived at the following; conclusion:

> In the light of these plainly expressed legislative findings declaring the necessity for the law and the mischief to be remedied we are drawn irresistibly by the language used to the conclusion that the Legislature meant to limit its provisions to industrial pursuits. The phrases: 'within and between industries' 'sweat shops', 'production and consumption', 'business depressions' and 'industrial strife and unrest' certainly do not relate to charitable or eleemosynary associations. It appears too plain for argument that the Legislature intended all of the statutory provisions and regulations of the Act to apply exclusively to industrial disputes."

It reversed the appealed order and entered one in favor of the appellant Salvation Army.

It will be noticed from the analysis made by the Pennsylvania Supreme Court of the State Labor Relations Acts that said Act and our Industrial Peace Act are similar, at least in basic purpose.

Then we have the case of St. Lukes Hospital vs. Labor Relations Commission, et al., 70 N. E. 2d .10, which is in point. It would appear that the members of a trade union, working as non-professional employees of St. Lukes Hospital, sought certification as the bargaining agent of 125 employees, including laundry workers, maids, porters, machinists, yard help, watchmen, storemen, waitresses, page girls, kitchen and cafeteria help, and orderlies. It seems that the Labor Relations Commission took action on the petition for certification. The Hospital filed action against the Commission for a declaratory decree claiming that said Commission had no jurisdiction to entertain the petition. The court issued an interlocutory decree granting a preliminary injunction, restraining the Commission from taking any further action in the certification proceedings. Acting upon the appeal, the Supreme Judicial Court of Massachusetts held that the hospital was a charitable institution, a public charity, established not for profit and was not covered by the State Labor Relations Act, and so the Labor Relations Commission had no jurisdiction over the petition for certification filed by its employees. It would also appear that the State Labor Relations Act is similar to our Industrial Peace Act, Republic Act No. 875. The Massachusetts Supreme Judicial Court describes said State Labor Relations Act as follows:

> It"constitutes a complete and comprehensive legislative plan for the elimination of substantial obstructions to trade and industry arising from disputes between employers and employees by removing the basis of such disputes, by protecting the right of employees to self-organization and to join and form labor organizations, and by encouraging the practice of collective bargaining through representatives of their own choosing to negotiate the terms and conditions of their employment.

> The commission is empowered to take appropriate means to ascertain and designate the representatives selected by the employees as their bargaining agency, to define the units for such representation, to decide, whether the employer has committed any unfair labor practice, and to secure enforcement of its orders by application to the Superior Court." * * *

The case of Office Employees International Union vs. National Labor Relations Board, 235 F.

2d 832, involves an interpretation of the National Labor Relations Act itself, after which, as already stated, our Industrial Peace Act is patterned. A group of organizations, mostly unions, in this case known collectively as Teamsters, was charged before the National Labor Relations Board with unfair labor practice with respect to its office and clerical employees. The Board found that the labor organizations represented by the Teamsters were employers with respect to their own employees, but inasmuch as they were not engaged in commerce, and applying to them the standards regularly applied to non-profit organizations, it refused to take jurisdiction over the case, finding 'that the policies of the Act (National Labor Relations Act) would not be effectuated by asserting jurisdiction in the proceeding". From the action of the Board, the case was finally taken up to the United States Court of Appeals, District of Columbia Circuit. Said Court upheld and affirmed the order of the Board.

It is true that there are some States in the American Union, like Wisconsin and Minnesota, the Supreme Courts of which have held that charitable institutions, like hospitals, are not exempted from the provisions of their state labor relations laws. Thus, in the case of Wisconsin Employment Relations Board vs. Evangelical Deaconess Society, 7 N. W. 2d 590, the Wisconsin Supreme Court held that the Deaconess Society was correctly held guilty of unfair labor practice for having refused to bargain with the union with which its employees were affiliated, for the reason that the said Society was not included within the exceptions in the statute whose words are broad enough to cover it. But said decision may possibly be explained in the sense that since the Labor Relations Statute of Wisconsin contained exemptions, it was presumed that any institution not excluded in said exemptions was covered by the law- Moreover, the statute of Wisconsin is entitled "Em-ployment Peace Act", which may give the idea that it covers any kind of employment, whether industrial or otherwise. On the other hand, our law on the subject is known as the Industrial Peace Act, and there is every reason to believe that it applies and was intended to apply only to industries, not to charitable institutions and others not organized or operated for profit.

Then in the case of Northwestern Hospital, Minnea?-polis, Minnesota vs. Public Building Service Employees Union, 294 N.W. 215, the Minnesota Supreme Court held that the Northwestern Hospital was not exempted from the operation of the State Labor Relations Act because neither said hospital nor its employees were included in the exemptions mentioned in the law's definitions of "employer" and "employee". What we have said about the Wisconsin Supreme Court decision about the exemptions contained in its Employment Peace Act are applicable to the Minnesota Supreme Court decision, meaning that the labor relations laws in those States expressly mentioned and enumerated all the entities and

institutions which the Legislature intended to exempt, so that anyone not so exempted would naturally come under their operation. But even if we assume that the court decisions in these two States hold that charitable institutions and those organized not for profit or gain come under the provisions of labor relations laws, still we prefer to follow the rulings of the Supreme Court of Pennsylvania and Massachusetts as more reasonable and more in keeping with the spirit that pervades our Industrial Peace Act.

But it is also claimed that the doctrines laid down by the Pennsylvania Supreme Court on the subject matter has been rejected by the United States Court of Appeals for the District of Columbia in its decision in National Labor Relations Board vs. Central Dispensary and Emergency Hospital, *supra*. We cannot subscribe to this claim or contention. In the said case of Central Dispensary, the Federal Court of Appeals for the District of Columbia was interpreting and applying the Wagner Act, which as we have already explained, was intended to cover only entities and institutions whose activities cross state lines, and where any labor dispute, specially when resulting in scheme of our Industrial Peace Act.

During our deliberations, attention was also called to the fact that the right to self-organization is consecrated in the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations by the the vote of many nations, including the Philippines and that by joining said Declaration, the Republic of the Philippines has undertaken to promote and secure the effective recognition of said right to self-organization among its people. We see no incompatibility between said recognition by our country of the right to self-organization and the non-application of our Industrial Peace Act to charitable institutions. The employees and laborers in these charitable institutions are not prohibited from organizing and joining a labor union. Even Section 11 of our Industrial Peace Act entitled "Prohibition Against Strikes in the Government," provides that government employees may belong to any labor organization provided that said organization does not impose the obligation to strike or to join any strike. There can be no valid legal objection to the employees and laborers of, say, the Red Cross, the Boy Scouts, or a charity hospital organizing themselves into an association or in joining a labor union. The line is drawn only when they try to compel the management to bargain and if refused, resort to coercive measures which may frustrate or paralyze the purposes and activities of these intitutions.

Digressing a bit, it may be pertinent to state our concept of some of the reasons for the promulgation of labor relations laws, not excluding our Industrial Peace Act. When a person or a group of persons organizes and operates a business or industry, for purposes of gain, the intention is to make as much profits as possible from the financial investment made,

sometimes m disregard of the reasonableness of the wages paid to its employees and laborers. The state feels that when the capitalists and management make substantial and sometimes excessive profits, labor should receive a reasonable share in said profits in the form of fair wages. However, it' has been seen that unorganized labor for lack of bargaining power is in no position to demand and succeed in its bid for a reasonable share in said profits in the form of more reasonable wages, better working conditions, etc. So, labor relations acts were passed allowing, even encouraging the organization of labor unions, through which the laborers may collectively bargain with the capitalists or management, the law compelling the latter to bargain and making it an unfair labor practice for said management to refuse to bargain, or to discriminate or take measures of reprisals against the employees and laborers for union activities. Laborers are even allowed to resort to coercive measures to enforce their legitimate demands, such as strikes oftentimes accompanied by picketing. However, where entities or institutions are organized not for profit, but for humanitarian, charitable, benevolent and analogous purposes, then the situation is entirely different for there are no profits in which labor may demand a share in the form of higher wages. There is no capital invested for financial returns. The funds used to operate these institutions come from voluntary contributions, endowments, government subsidies, etc. Oftentimes, the top executives and officials in these organizations like the Red Cross and the Boy Scouts of the Philippines serve without pay in order that the funds of these institutions, most often meager, could be kept intact as much as possible and channeled to the use and benefit of the persons for whom they were intended. Naturally, the reason for the promulgation and operation of these labor relations acts to aid laborers and employees in general, is absent and there would be no excuse or occasion for resort to coercive measures like strikes, in order to force these institutions to bargain and pay higher wages. Besides, the application of these labor relations acts to these charitable institutions would in some cases be disastrous. One can, for instance, easily imagine the result and dire, consequences if the nurses, attendants and laborers of a charity hospital presented demands for higher wages and if refused, stage a strike at a time purposely sought when there was a raging epidemic of say, influenza or cholera; the activities of the hospital will then be paralyzed and if the management tried to employ, even temporarily, other nurses, attendants and laborers to attend to the patients in the crowded hospital needing immediate attention, the strikers would discourage or even prevent said employment and hiring of substitutes by picketing the hospital premises. The same would be true with employees and laborers of the Red Cross who upon the rejection of their demands for higher wages, would stage a strike, and to make it more effective, time to make it coincide with the occasion of a calamity, such as a destructive typhoon, flood, earthquake, etc., thereby paralyzing the

activities of said Red Cross and preventing it from extending relief to the victims. We cannot believe that the Legislature in enacting our Industrial Peace Act could have intended the law to so operate and apply.

On the basis of the foreging considerations, there is every reason to believe that our labor legislation from Commonwealth Act No. 103, creating the Court of Industrial Relations, down through the Eight Hour Labor Law, to the Industrial Peace Act, was intended by the Legislature to apply only to industrial employment and to govern the relations between employers engaged in industry and occupations for purposes of profit and gain, and their industrial employees, but not to organizations and entities which are organized, operated, and maintained not for profit or gain, but for elevated and lofty purposes, such as, charity, social service, education and instruction, hospital and medical service, the encouragement and promotion of character, patriotism and kindred virtues in the youth of the nation, etc.

In conclusion, we find and hold that Republic Act No. 875, particularly, that portion thereof regarding labor disputes and unfair labor practice, does not apply to the Boy Scouts of the Philippines, and consequently, the Court of Industrial Relations had no jurisdiction to entertain and decide the action or petition filed by respondent Araos.

Wherefore, the appealed decision and resolution of the CIR are hereby set aside, with costs against respondent.

Paras, C.J., Bengzon, Padilla, Reyes, A., Bautista Angelo, Labrador and *Felix, JJ.*, concur.

DISSENTING OPINION

Concepcion, *J.*:

The Boy Scouts of the Philippines, a corporation organized under the Philippine Laws, seeks a review by certiorari of a decision of the Court of Industrial Relations, the dispositive part of which reads as follows:

> "In view of the foregoing considerations, the respondent is hereby ordered:

> "1. To cease and desist from dismissing any of the employees for having filed charges against it;
>
> "2. To reinstate Mrs. Juliana V. Araos to her former or equivalent position, with back pay, without prejudice to all privileges accruing in her favor, from June 1, 1954 up to her reinstatement;
>
> "3. To post a copy of the dispositive portion of this decision in its bulletin board, the same to remain posted therein for thirty (30) days from the date of this decision becomes final and executory."

The facts are set forth in the resolution of said Court, sitting *in banc*—whose findings of fact are binding and conclusive upon Us—denying a reconsideration of the aforementioned decision. We quote from said resolution:

> "Juliana V. Araos, a professional deputy scout executive, was one of the organizers, and is the president, of a labor union of employees in the Boy Scouts of the Philippines named 'BSP Employees Welfare Association'. At the time of union organization, Mr. Exequiel Villacorta was the Chief Scout Executive, the administrative and executive officer of the organization with full control and supervision of the employees. When he heard about the union, he called an emergency meeting of directors and *exorted them to desist from getting on with the organization* because, according to him, unions are for laborers and stevedores only. He also called complainant to his office and *advised her not to continue with her activities* for the BSP 'does not need any union'. He also *instructed the employees not to join the union, and the directors to convince every employee not to join otherwise their loyalty might be at stake*, which instructions the directors and employees complied.

"Complainant, however, continued with her union activities, and in a series of meetings to draft proposals for collective bargaining, she gathered from the members certain facts and data which pointed to the existence of serious irregularities and anomalies in the Boy-Scouts organization which affected the employees' morale: Among these irregularities were the fact that Mr. Exequiel Villacorta, Chief Scout Executive, was allowing his wife to transact business with the BSP; that Mrs. Villacorta was using the BSP official car in the delivery of her merchandise to the BSP, thus utilizing official property for purely private business purposes; and that these transactions were not recorded on official BIR forms to evade payment of taxes.

"On the basis of these data and information supplied by her union members, Mrs. Juliana V. Araos on February 1, 1954 filed formal charges against Mr. Exequiel Villacorta with the National Bureau of Investigation. Copy of the charges was sent to President Jorge B. Vargas of the BSP with a request that a special committee be created to investigate Villacorta for malfeasance and misfeasance in office. *Finding no response or reaction on these charges* from the BSP authorities, Mrs. Araos sought action from the 15th Annual Meeting of the National Council at San Juan, Rizal on May 8, 1954 by distributing among the delegates mimeographed copies of a 'memorandum report on the official business transactions of Mr. Exequiel Villacorta.' This memorandum was signed and distributed by her in her capacity as President, BSP Employees Welfare Association.

"The National Bureau of Investigation found Mr. Exequiel Villacorta guilty of the charges filed by complainant.

"Following release of the NBI report, Mr. H. B. Reyes, Chairman of the Personnel Committee, on May 18, 1955, addressed a letter to Mrs. Juliana V. Araos informing her that 'A report and complaint have been received by President Jorge

B. Vargas, and the National Executive Board of the Boy Scouts of the Philippines, to the effect that you have engaged systematically in activities inimical to the best interests of the Boy Scouts of the Philippines, with total disregard and defiance of the duly constituted authorities of the Boy Scouts of the Philippines.' The letter gave Mrs. Araos 72 hours to 'explain why disciplinary action should not be taken against you for your censurable conduct against the best interest of the Boy Scouts of the Philippines.'

"Within the peremptory period of 72 hours, Mrs. Araos filed her reply explaining the reasons fox her activities in filing charges against the Chief Scout Executive and denying that those activities were inimical to the best interest of the BSP or were in defiance of its duly constituted authorities.

"No investigation or hearing was ever held or conducted by the respondent on the charges and complaint filed against Mrs. Araos, particularly on her activities which respondent considered to be inimical to its best interests.

"Without such investigation or hearing, the Personnel Committee on May 26, 1954, rendered its report on the record of service and activities of Mrs. Araos and on the basis of such record and activities recommended her immediate dismissal. On June 1, 1954, President Jorge B. Vargas of the BSP dismissed her *summarily*.

"The report and recommendation of the Personnel Committee on which the dismissal was based reviewed the activities of Mrs. Araos culminating in the filing by her of charges against Mr. Villacorta and ended up with this statement: 'Instead of taking care of the welfare of the employees, she organized a labor union and became its president. This continued until she started to file the complaints against Mr. Villacorta."

> "After Mrs. Araos was dismissed, respondent exonerated and cleared Mr. Villacorta of the charges of which he was found guilty by the NBI and *allowed him to resign enabling him to collect as gratuity a sizeable sum.*"

As respondent, thereupon, brought her case to the Court of Industrial Relations, the following proceedings, against the Boy Scouts of the Philippines, took place therein, according to the decision appealed from, from which we quote:

> On September 28, 1954, Acting Prosecutor Atty. Jaime E. Ilagan filed with this Court a complaint, charging respondent of having committed unfair labor practices in contemplation of Section 4, sub-section (a), paragraphs (4) and (5) of Republic Act No. 875.

> "Respondent filed a motion to dismiss, based on the grounds that petitioner was dismissed for cause and not for union activity; that she was not discriminated in regard to her connection with or her tenure of employment; that because the complainant held an executive and supervisory position within the meaning of Section 2, sub-paragraph (k) of Republic Act No. 875, she is disqualified to be a member of the union of employees under her supervision in accordance with Section 3 of the said Act; and that respondent is not covered by Republic Act No. 875, since said Act, for all intents and purposes, is solely intended to cover only industry, trade, occupation or profession exercised by an employer for the purpose of gain.

> "To abbreviate the proceedings and avoid dilatory tactics, the Court, pursuant to Section 3, Rule 8 of the Rules of Court, deferred the consideration of the above-mentioned motion to dismiss until the termination of the trial, so that all questions of law and fact may be determined and decided in a single decision.

> "On September 9, 1954, respondent filed its answer, specifically denying having committed unfair labor practices against the complainant, and as affirmative defenses, it reiterated its stand in its motion to dismiss.
>
> "The parties submitted oral and documentary evidences in support of their respective claims."

Upon submission of the case for decision on the merits, said Court passed upon the issue raised in the motion to dismiss, and found the same untenable, upon the ground that respondent herein was not a "supervisor", as the term is denned in section 2(k) of Rep. Act No. 875, and that the herein petitioner is within the purview of the term "employer," as denned in paragraph (c) of the same section.

The court then examined the evidence on the cause of the dismissal of respondent herein, and reached the following conclusion:

> "After a careful consideration of the evidence submitted by the parties, the Court found that Mrs. Juliana V. Araos is one of the organizers of the BSP Employees Welfare Association of which she is the president of the same; that by virtue of her union activities she learned from the members of their Association about the anomalies prevailing in the BSP office to the effect that Mr. Villacorta allowed his wife to deal business transactions with the Boy Scout of the Philippines and that Mrs. Villacorta delivered her merchandise by using the Boy Scouts' car for her private business; that as president of the Association, and as employee of the Boy Scouts of the Philippines, Mrs. Araos personally undertook the filing of a complaint against the chief scout executive, Mr. Exequiel Villacorta, because there was graft and corruption in the BSP office which was tolerated by him; that he was found guilty by the agent of the National Bureau of Investigation who investigated him; that Mr. H. B. Reyes the Personnel Committee Chairman of the Boy Scouts of the Philippines sent a letter to Mrs. Araos informing her that 'A report and complaint have been received by President Jorge B. Vargas, and the National Executive Board of the Boy Scouts of the Philippines, to the effect that

you have engaged systematically in activities inimical to the best interests of the Boy Scouts of the Philippines, with total disregard and defiance of the duly constituted authorities of the Boy Scouts of the Philippines', *but no investigation or hearing was ever held* by Mr. H.B. Reyes or his Personnel Committee; that one of the activities which was pursued by Mrs. Araos and considered by the BSP authorities as inimical to the best interest of the institution was that stated in the findings of the Personnel Commitee, the pertinent portion of which stated: 'Instead of taking care of the welfare of the employees, she organized a labor union and became its president. This continued until she started to file the complaints against Mr. Villacorta.' *Thus, Mrs. Araos was dismissed by the respondent's Personnel Committee for having filed charges against the respondent's chief scout executive*. From the grounds for the dismissal, *the Court finds enough color of unfair labor practice against the management of respondent. Consequently, the commission of unfair labor practice, within the meaning of Section 4, subsection (a), paragraph 5, of Republic Act No. 875, could be traced, at the door of the management of the Boy Scouts of the Philippines*. Shifting the truth from a maze of the judicial record, we find this: *While Mrs. Araos, whose charges have been found to be true by the National Bureau of Investigation, was thrown out of .employment, the official who was found guilty of those charges was allowed, to resign and, collect his gratuity amounting to a sizeable sum."* (Italics ours.)

This finding was reiterated in the resolution above referred to, in the following language:

"Respondent alleges that it did not dismiss Mrs. Araos because of her filing charges against Mr. Villacorta but for engaging in activities inimical to the best interests of the BSP and for disregarding and defying duly constituted authorities of the BSP. It is clear from the evidence, however, that these activities of the employee which respondent considered to be inimical to its interests consisted in the filing of these charges against the Chief Scout Executive, or in acts in prosecution of the same. The statement of the Personnel Committee in its report above-quoted leaves no room for doubt as to the continuity of the employees' union activities which ended in the filing of her charges against Mr. Villacorta.

> Such a statement cannot but convey the idea that the organization and leadership of a labor union is the antithesis of taking care of the welfare of the employees, and therefore, is an activity inimical to the employer's welfare and interest. Taken together with the deprecatory remarks of the Chief Scout Executive that 'unions are for laborers and stevedores only', that 'the BSP does not need any union', and his instructions to the employees net to join the union, *the cumulative effect of each anti-union expressions and conduct was already sufficient to discourage if not coerce, the employees from, joining the union, and to destroy their freedom of choice and action*. This is already a form of employer interference prescribed by the Act. *There is therefore, sufficient substantial evidence in the record to justify the conclusion that the circumstances surrounding Mrs. Araos' dismissal have necessary and inevitable connection with her activities as a, labor leader and, organizer and as president of a legitimate labor organization. This' dismissal being traceable to her union activities is clearly an unfair labor practice within the meaning of Section £, subsection (a), paragraph 5 of Republic Act No. 875."* (Italics ours.)

Briefly stated, the union activities, for which respondent was dismissed, were: (1) that "she organized a labor union and became its president" (despite the advise, of the Chief Scout Executive, Mr. Villacorta, to the contrary, for the "organization and leadership of a labor union is the antithesis of taking care of the welfare of the employees") ; and (2) that, as president of said labor union, she filed complaints against the aforementioned Chief Scout Executive, which culminated in his resignation.

The issue before Us is whether the right to self-organization, under section 3 of Republic Act No. 875, and the provisions of section 4 thereof, defining unfair labor practices, are applicable to petitioner herein, the Boy Scouts of the Philippines, and whether the Court of Industrial Relations had jurisdiction to hear the charge of unfair labor practice preferred against said petitioner by reason of the summary dismissal of respondent Mrs. Araos, without investigation or hearing, on account of her union activities.

Petitioner maintains that the answer should be in the negative, upon the ground that it is neither a commercial nor an industrial enterprise, but a civic and benevolent institution engaged in the,-promotion and development of character, patriotism, courage, self-reliance and kindred virtues of the boys of the nation. This view is upheld in the majority opinion, relying on five (5) cases decided by this Court, namely: U.S.T. Hospital Employees

Association vs. Santo Tomas University Hospital, 95 Phil., 40; San Beda College vs. National Labor Union, 97 Phil., 787, 51 Off. Gaz. 5836; Quezon Institute vs. Velasco and Quezon Institute vs. Parazo, 97 Phil., 905, 51 Off. Gaz. (12) 6175; and Baselides Marcelo vs. Philippine National Red Cross, 101 Phil., 544.

None of these cases, however, is in point. The last three (3) cases did not touch at all upon the jurisdiction of the Court of Industrial Relations. The Marcelo case was an action instituted in the Court of First Instance of Manila. The issue therein was whether the Eight-Hour-Labor Law (Com. Act No. 444) applied to the Philippine National Red Cross. Besides, pursuant to section 2 of said law, the same

> "* * * *shall apply to all persons employed in any industry or occupation*, whether public or private, with the exception of farm laborers, laborers who prefer to be paid on piece work basis, domestic servants and persons in the personal service of another and members of the family of the employer working for him." (Italics ours.)

and there is no similar provision in Republic Act No. 875 limiting its operation to industries or occupations, except in the case of compulsory arbitration in labor disputes "in industries indispensable to the national interest", under section 10 thereof.

The Quezon Institute cases involved claims filed with the *Workmen's Compensation Commission*. The question was whether the claimants were engaged in "industrial employment" under the *Workmen's Compensation Act* (No. 3428), section 39 (d) of which, as amended by section 22 of Republic Act No. 772, provides:

> '"Industrial employment' in case of private employers includes all employment or work at a trade, occupation or profession exercised by an employer *for the purpose of gain*, except domestic service." (Italics ours.)

This specific provision requiring the "purpose of gain" for the applicability of the Workmen's Compensation Act, and the absence of a similar provision in the Industrial Peace Act

(Republic Act No. 875), indicates that the latter does not follow the pattern of the former.

The U. S. T. and San Beda cases refer to the jurisdiction of the Court of Industrial Relations *under Commonwealth Act No: 103*, section 4 of which says that said "Court shall take cognizance * * * of any *industrial* or *agricultural* dispute causing or likely to cause a strike or lock-out." The jurisdiction of said court, however, has been *substantially modified* by Republic Act No. 875, upon the construction of which the case at bar depends. Besides, the decision in the San Beda case was based upon the ruling in the U. S. T. case, and this, in turn, was premised upon the theory that the employees involved therein were *not under "industrial employment", as the phrase is defined in said section 39 of the Workmen's Compensation Act* (Act No. 3428)*, as amended, which has no bearing on the issue before Us*.

Again, the ruling in the U.S.T. and San Beda cases is offset by two (2) decisions of this Court to the contrary. In Metropolitan Water District Workers' Union vs. Court of Industrial Relations, 91 Phil., 840 and Government Service Insurance System vs. Castillo, 98 Phil., 878, 52 Off. Gaz. (9) 4269, we held that the Court of Industrial Relations *had jurisdiction*, under Commonwealth Act No. 103, as amended, to settle disputes between the aforementioned instrumentalities of the Government, on the one hand, and its employees, on the other, despite the fact that the former were engaged neither in the production of goods, nor in seeking monetary gain. The Metropolitan Water District has been established to render a public service, namely, to furnish "an adequate water supply and sewerage service" to the inhabitants of Manila, and other political subdivisions (Acts Nos. 2832, 3109fand 4079; Com. Act Nos. 60, 384 and 438; Rep. Act No. 1149). The Government Service Insurance System was created "to promote the efficiency and welfare of the employees of the Government of the Philippines." (Com. Act 186, sec. 3; Rep. Act Nos. 660, 728 and 1123.)

It is claimed, however, that "it cannot be truly said that" the Metropolitan Water District "does not seek monetary gain" because

> "* * * for the water and sewerage service it renders, it charges compensation, sometimes at a rate which in the opinion of the consumers is above the value of said service, resulting in general complaints and petitions for reduction of rate. This profit or gain over the expenses incurred by the Metropolitan Water District

> is utilized to expand its facilities and resources, so that after many-years, the property, resources and assets of the Metropolitan Water District will be far in excess and beyond its original capital or investment, and any time or when this entity is dissolved or its functions are taken over by a private entity, which is possible and legally permissible, and its assets are bought as an entity, their would be a sizeable, if not a tremendous gain for the Government. Besides, any increase in pay, extra compensation, bonus, etc., which may be demanded by and granted its employees and laborers, if they cannot be taken from or absorbed by the income and profits, can easily be passed on to its customers by increasing its rates."

To determine the soundness of the conclusion drawn from these facts, let us apply the same to sectarian schools or colleges and say, paraphrasing the majority opinion: * * * For the * * * service" the school "renders it charges compensation, sometimes at a rate which in the opinion of the" public "is above the value of said services, resulting in general complaints and petitions for reduction of" tuitions and other fees. "This profit or gain over the expenses incurred by the" school "is utilized to expand its facilities and resources, so that after many years, the property resources and assets of the" school "will be far in excess and beyond its original capital or investment and any time or when this entity is dissolved or its functions are taken over by" another "entity * * * there would be a sizeable, if not tremendous gain for the" school. "Besides, any increase in pay, extra compensation, bonus, etc., which may be demanded by and granted its employees and laborers, if they cannot be taken from or absorbed by the income and profits, can easily be passed on to" the student "by increasing" the tuitions and other charges. The same could be said about the U. S. T. Hospital and other similar institutions. *Yet, in the U. S. T. Hospital and the San Beda College cases (supra) we held that both do not seek monetary gain.*

All of which goes to show that the decisive factor, in connection with the subject matter under discussion, is the *main* and *ultimate* goal of the institutions under consideration, *as determined by the charter of its' organization or the law creating it, not the incidental benefits or consequences resulting from the administrative policies of the managing officers or boards at a given time.* (*See* Jesus Sacred Heart College vs. Collector of Internal Revenue, 95 Phil., 16: American Bible Society vs. City of Manila, 101 Phil., 386, 54 Off. Gaz. (7) 2187; Murdock vs. Pennsylvania, 319 U.S. 103.). Otherwise, a purely commercial venture could evade the operation, not only of the Industrial Peace Act, but, also, of other similar laws, by merely showing that it has sustained or is sustaining loses in a particular year.

Surely, Congress could not have intended to place in the hands of the parties sought to be regulated by law, the very means to circumvent and defeat the same.

With respect to the case of the Government Service Insurance System, the majority opinion states:

> "* * * as to the Government Service Insurance System, it is well known that it invests its fund derived from the contributions of government employees, in huge amounts and at substantial interest, and the profits made therefrom are in part distributed as dividends among' its insured. Surely, said insurance entity does not operate for charity, but in practice operates for profit or gain for the benefit of those insured by it. This, aside from the fact that insurance has been generally considered and even held by the courts to be a business."

To begin with, if—as stated in the majority opinion— the Government Service Insurance System is operated "for the benefit of those *insured by it,"* I can not see how it may be deduced therefrom that the System seeks profit or gain. A charitable institution is, likewise, operated for the benefit, not of itself, but of the recipients of the charity dispensed to them, and, precisely, for this reason, said institution falls under the classification of non-profit organizations. Pursuant to the line of reasoning in the majority opinion, the Boy Scouts of the Philippines should be regarded as seeking "profit or gain," it being engaged in the promotion and development of certain qualities in the boys of the country.

Secondly, although the funds derived from the contributions of government employees are invested and the profits derived from the investments "are in part distributed as dividends among its insured", this is made merely *to reduce the cost of the insurance* of said employees, not for the purpose of seeking monetary gain, either for the System, or for its members. Their insurance premiums is thereby decreased by an amount equivalent to the dividends received by them. Certainly, this does not convert the System into an institution seeking monetary gain. Thus, mutual savings banks, fraternal beneficiary societies, orders or associations, operating under the lodge system or for the exclusive benefit of the members of the fraternity itself, cemetery companies owned and operated exclusively for the benefit of its members, corporations or associations organized and operated exclusively for religious, charitable, scientific, athletic, cultural and educational purposes, or for the

rehabilitation of veterans, no part of the net income of which inures to the benefit or any private stockholder or individual, civic leagues, operated exclusively for the promotion of social welfare, and other similar enterprises, are *expressly exempted from the tax on corporations* (Sec. 27, Act No. 1459), for the obvious reason that these enterprises are *non-profit organizations*, despite the fact that the purpose of each is to promote the welfare, either of its members, or of the community in general.

Thirdly, as already adverted to, the enabling act of the Government Service Insurance System (Com. Act No. 186) declares positively that the same was created "to promote the efficiency and welfare of the employees of the Government of the Philippines" and this is *conclusive* on the objective of the System. Thus, it has been held that "the right of a corporation to an exemption is to be determined *by the powers given in its charter*, and not by the method by which it operates or conducts its business" (In re First National Safe Deposit Co., 173 S.W. 2d 403, 351 Mo. 423). Likewise, "in the United States a corporation, to be exempt from income tax, is *not precluded from conducting business activities for profit, since the destination of the income is more significant than its source.*" (Roche's Beac vs. Comm. 96 F 2d 776.)

At any rate, none of the aforementioned five (5) cases refers to the dismissal of an employee on account of his union activities. The right to form and join labor organizations was not in issue in any of said cases. Hence, the question involved in *the present case is one of first impression* in the Philippines.

The jurisdiction of the Court of Industrial Relations over this case is governed by section 5 of Republic Act No. 875. Paragraph (a.) thereof reads:

> "The Court shall have jurisdiction over the prevention of unfair labor practices and is empowered to prevent any person from engaging in any unfair labor practice. This power shall be exclusive and shall not be affected by any other means of adjustment or prevention that has been or may be established by an agreement, code, law or otherwise."

The authority of said Court under this provision does not depend upon the existence of a labor dispute. So long as there is an unfair labor practice to be prevented, the Court may

exercise its jurisdiction. The acts constituting such unfair labor practice are enumerated in section 4, which is quoted on the margin.[1] Briefly stated, under the first part of said section 4, any act of interference by the "employer" in the right to self-organization "guaranteed" in section 3, is unfair labor practice. Said section 3, in turn, provides:

> "*Employees* shall have the right to self-organization and to form, join or assist labor organizations of their own choosing for the purpose of collective bargaining through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection. Individuals' employed as supervisors shall not be eligible for membership in a labor organization of *employees* under their supervision but may form separate organizations of their own." (Italics ours.)

This section acknowledges the right of "employees" to self-organization. What "employees" are alluded to therein? Are employees in charitable institutions within the purview of said section 3? What "employers" are referred to in the aforementioned section 4? Hence, the issue in the case at bar hinges on the meaning of the terms "employer" and "employee", within the purview of Republic Act No. 875. Section 2 thereof declares that, "as used in this Act:

* * * * * * *

> "(c) The term 'employer' includes *any* person acting in the interest of an employer, directly or indirectly but shall not include any labor organization (otherwise than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

> "(d) The term 'employee' shall include *any* employee and shall not be limited to the employee of a particular employer unless the Act *explicitly* states otherwise

> and shall include any individual. whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice and who has not obtained any other substantially equivalent and regular employment." (Italics ours.)

Pursuant to the explanatory note to the bill that eventually became Republic Act No. 875, the same is partly "modelled * * * after the U.S. National Labor Relations Act", otherwise known as the Wagner Act (Act of July 5, 1935). Construing the same, the authorities are *unanimous* to the effect that non-profit organizations or charitable institutions *are within* the scope of the term "employer" *as defined in the Wagner Act*. It was so held, consistently and uniformly, in one (1) decision of the Supreme Court of the United States—

> Polish National Alliance vs. N.L.R.B., 322 U.S. 643, 88 L. ed. 1509 (1944) involving a fraternal benefit society providing death, disability and accident benefits to its members and their beneficiaries—

in five (5) federal cases—

> a) N.L.R.B. vs. Central Dispensary & Emergency Hospital (1944), 145 F. 2d. 852, referring to a charitable hospital;

> b) N.L.R.B. vs. American Pearl Button Co., 1949 F. 2d. 258 (1945), dealing with, among others, a chamber of commerce;

> c) Associated Press vs. N.L.R.B., 85 F. 2d 56 (1936), the plaintiff in which was a non-profit cooperative news association;

d)N.L.R.B. vs. Holtville Ice & Cold Storage 148 F. 2d 168 (1945), involving a nonprofit corporation composed of farmers, business and professional people;

e) N.L.R.B. vs. San Tent-Luebbert Co. (1945) 151 F. 2d 483, involving "a non-profit California Corporation composed of employers"—and

in five (5) cases decided by the National Labor Relations Board (see Rothenberg on Labor Relations, pp. 329-330 and 26 A.L.R. [2d] 1022) —

a) In re Fayetteville & Lincoln County Chamber of Commerce, 70 N.L.R.B. (No. 58), dealing with a chamber of commerce;

b) In re Merced Board of Trade, 69 N.L.R.B. (No. 125), which refers to a board of trade;

c) In re Henry Ford Trade School, 62 N.L.R.B. (No. 175), involving a non-profit school;

d) In re Gibson County Electric Membership Corporation, 65 N.L.R.B. (No. 126), referring to a non-profit cooperative; and

e)In re General Electric Co. (Kalder Hospital) 89 N.L.R.B. (No. 149), involving a non-profit hospital.

It should be noted, also, that the Supreme Court of the United States *affirmed* the decision

of the Circuit Court of Appeals in Associated Press vs. N.L.R.B. (*supra*) (*see* 301 U.S. 103, 133, 81 L. ed. 953, 961) and refused to review the decision of said Circuit Court in N.L.R.B. vs. Central Dispensary & Emergency Hospital (*supra*) (*see* 324 U.S. 847, 89 L. ed. 1408).

It is argued, however, that the foregoing cases "cannot be considered applicable, even relevant" to the case at bar, because of: (a) the difference between the definition of the terms "employer" and "employee" under Republic Act No. 875 and that found in the Wagner Act; and (&) the main objective of the latter.

With respect to the first ground, paragraphs (2) and (3) of section 2 of the Wagner Act provides:

> "(2) The term 'employer' includes any person acting in the interest of an employer, directly or indirectly, but shall not include the United States or any State or political subdivision thereof, or any person subject to the Railway Labor Act, as amended from time to time, or -any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

> "(3) The term 'employee' shall include any employee and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or persons at his home, or any individual employer by his parent or spouse."

It will be noted that the following are excluded from the connotation of the term "employer", as used in the Wagner Act:

1. The United States,

2. Any State or political subdivision thereof,

3. Any person subject to "the Railway Labor Act, as amended from time to time,

4. Any labor organization (other than when acting as an employer), and

5. Anyone acting in the capacity of officer or agent of such labor organization.

The definition of "employer", in section 2 of our Industrial Peace Act, expressly excludes therefrom the last two (2) cases only. However, section 11 of the same Act[2] specifically places, also, beyond the meaning- of said term, (a) "the Government" and (b) "any political subdivision or instrumentality thereof", as regards the right of "employees employed in governmental functions" to "strike for the purpose of securing changes or modifications in their terms and conditions of employment," which are governed by law. Accordingly, the Industrial Peace Act removes from the import of the term "employer" four (4) of the five (5) exceptions found in the Wagner Act. The only exception in the latter not explicitly included in the former is that which refers to persons subject to the U.S. Railway Labor Act. But *this is not really an exception*, because such persons *are* subject to said special Labor Act (which has no counterpart in the Philippines), though placed beyond the scope of the U.S. *general* labor law (Wagner Act). Thus, *the coverage of the term "employer" under Republic Act No. 875, is substantially the same as that of the Wagner Act.*

On June 23, 1947, Congress of the United States passed the Labor Management Relations Act, otherwise known as the Taft-Hartley Act, which, among other things, amended the definition of the term "employer" under the Wagner Act by *increasing the number of exceptions thereto*, with the addition of the following:

(1) Any wholly owned federal corporation;

(2) Any Federal Reserve Bank;

(3) Any corporation or association operating a hospital (provided: 'no part of the net earnings inures to the benefit of any private shareholder or individual').

Thus, as already adverted to, charitable institutions— except (under the Taft-Hartley Act) hospitals "no part of the net earnings" of which "inures to the benefit of any private shareholder or individual"—have been consistently held to be *subject* to the provisions of the Wagner Act and the Taft-Hartley Act. *The language of both becomes more significant still when we consider that the bill, introduced in the House of Representatives of the U.S. (H. R- 3020) — which, upon approval, became said Taft-Hartley Act— sought to exclude from the operation of the law all charitable institutions and non-profit organizations.*[3] As Rothenberg, in his work on "Labor Relations", aptly puts it:

"* * * in eliminating from the Labor Management Relations Act those portions of the House Bill's definition which would have established charitable and kindred purposes as a basic test of 'employer' status, it seems evident that *Congress did not intend to alter the rule which obtained under the original act that mere charitable purpose or non-commercial operation does not, of itself, exclude an entity from liability as an 'employer' under the Act.*" (Italics ours; Page 330.)

Owing to the fact that the exceptions added by the Taft-Hartley Act do not appear in the definition of "employer", under Republic Act No. 875, the majority opinion concludes "that our Legislature, in drafting the law, particularly the portion defining employer and employee did not deem it necessary or advisable to make the obvious and necessary exemptions or exceptions, but left it to the courts for interpretation and application." I can not agree with this conclusion, for the following reasons:

1. It is based upon the premise—which, with due respect to the majority opinion, is, to my mind, inaccurate—what "our Legislature * * * did not deem it necessary or advisable to make the * * * necessary exemption or except ions." As above stated, Republic Act No. 875 *incorporates substantially*, in its definition of "employer", the exemptions contained in the Wagner Act. Hence, the term "employer" in Republic Act No. 875 has the same import it had under the Wagner Act, and includes charitable or non-profit organizations.

2. The Taft-Hartley Act sought to restrict the meaning of "employer" under the Wagner Act, by excluding from its operation *some* charitable institutions, namely, hospitals "no part of the net earnings" of which "inures to the benefit of any private shareholder or individual." However, Republic Act No. 875 has been modelled after the Wagner Act, not after the Taft-Hartley Act, despite the fact that the latter was already in force at the time of the enactment of our Industrial Peace Act. Thus our Congress has implicitly, but clearly, rejected said restriction imposed by the Taft-Hartley Act. Yet, by refusing thereby to exempt *some* charitable institutions, Republic Act No. 875 has exempted all of such institutions, according to the majority opinion.

3. Pursuant to Republic Act No. 875 (sec. 2)

> "The term 'employee' shall include any employee and shall not be limited to the employee of a particular employer unless the Act explicitly states otherwise and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice and who has not obtained any other substantially equivalent and regular employment."

This is a literal copy of the definition of "employee" under the Wagner Act, except that the latter adds, to the foregoing, the following qualification:

> "but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or persons at his home, or any individual employer by his parents or spouse."

The failure of Republic Act No. 875 to incorporate this clause, after adopting the definition it qualified in the Wagner Act, leads to no other conclusion than *that our Congress did not intend to subject the term "employee" to the limitation found in the Wagner Act*. Still, by refusing to exclude the three (3) classes of employees referred to in the above-quoted clause, the majority concludes, in effect, that our law exempts not only said three (3) classes, but, also, *more*, namely, all charitable and non-profit organizations. Apart from being, to my mind, untenable, from a syllogistic viewpoint, *this conclusion runs counter to the express provision* of the law, pursuant to which "the term 'employee' shall include any employee, and shall not be limited to the employees of a particular employer, *unless the Act explicitly states otherwise*." Republic Act No. 875 does not *explicitly* state that charitable and non-profit organizations are excluded from its operation.

In support of the theory that the decisions construing the Wagner Act are not applicable to the present case, the majority opinion points out the fact that the Wagner Act was approved to diminish the causes of labor disputes burdening or obstructing "interstate and foreign *commerce*". Suffice it to say, that the term "commerce", as used in the Wagner Act, does not refer exclusively to ventures undertaken for material profit. Indeed, according to section 2 (6) of the Wagner Act:

> "The term 'commerce' means trade, *traffic*, commerce, *transportation or communication* among, the several States, or between the District of Columbia or any 'Territory of the United States and any State or other Territory,' or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia or any Territory, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign country." (Italics ours.)

Consequently, "interstate commerce," within the purview of the Wagner Act, includes, not only commercial ventures involving several states of the Union, but, also, undertakings affecting the "traffic, * * * transportation or communication" between said states, *regardless of whether or not the parties concerned seek monetary gain.* Otherwise*, how could the American Courts have consistently held that charitable or other non-profit organizations are engaged in interstate commerce? Charity implies that he who practices it does not thereby seek his financial advantage* and is not engaged, therefore, in "commerce," in the sense in

which the majority would seem to take it.

Certain parts of the decisions in the Polish National Alliance vs. N.L.R.B. (322 U.S. 643) and N.L.R.B. vs. Central Dispensary Emergency Hospital (135 F. 2d. 852), have been stressed in the majority opinion in order to show, apparently, the need to be engaged in "commerce" in order to fall within the purview of the Wagner Act. A careful reading of the portions quoted readily indicates, however, that *not a single reference has been made therein to any monetary profit realized* or sought to be realized—for there were none—in the operation of the Polish National Alliance and the Central Dispensary Emergency Hospital. On the contrary, the court noted specifically the *"cultural and fraternal"* nature of the former and the *charitable* character of the latter.

The effort exerted in the decisions, in both cases, to explain the magnitude of the undertaking of said organizations, the big amount of their respective capitals, the great number of employees and/or persons involved in the operation of each organization, the states affected by the same and the possible adverse consequences upon the community of a stoppage of said operation, are due to one simple reason. Although the National Labor Relations Board is, under the Federal Law, competent to hear unfair labor practice cases involving charitable or non-profit organizations, said Board has discretion to exercise or not its afore-said authority, and, in some cases, has declined to exercise it (sec. 2 [7], Wagner Act, 49 Stat. 449, 450, c. 372, 29 USCA, sec. 152 [7]; N.L.R.B. vs. Denver Bldg. & Const. Trades Council, 341 U.S. 675, 95 L. ed. 1284; Office Employees International Union vs. N.L.R.B., 235 F. 2d. 832; Polish National Alliance of the U.S.A. vs. N.L.R.B., 322 U.S. 643, 648, 88 L. ed. 1509, 1515). The aforementioned circumstances were, accordingly, set forth, in said decisions, merely *to justify the assumption of jurisdiction by the Board*, not to demonstrate, either that the institutions in question were commercial establishments organized for the purpose of enrichment, or that such purpose is essential to said jurisdiction.

Needless to "say, the provision of the Wagner Act requiring interference with interstate commerce as a condition precedent to the jurisdiction of the National Labor Relations Board is one of the features which has not been incorporated into Republic Act No. 875. Hence, it is not proper to limit the application of the latter to commercial enterprises, even if the term "commerce" in the Wagner Act referred— for it did not refer—exclusively to transactions seeking financial advantage. In the language of the explanatory note to the bill which later became Republic Act No. 875,

> "The experience under Commonwealth Act No. 213 which now regulates the subject, has shown the need for further safeguards to the right of workers to organize. The attached bill seeks to provide these safeguards, following the pattern of *United States National Labor Relations Act, with suitable, modifications demanded by local conditions.*" (Italics ours.)

I find it harder to accept the majority view, which, after refusing to follow the *federal* decisions holding that charitable and non-profit organizations are subject to the Wagner Act, *which is the declared pattern of Republic Act No. 875*, prefers to adhere to the rulings of some state courts, construing *state* labor laws, after which our Industrial Peace Act has *not* been patterned. To justify this stand, the majority states that:

> "Republic Act No. 875 is patterned after the lalbor relations legislation in the United States of America, particularly, the Federal Labor Relations Act, including the labor relations acts of the different States."

I regret to disagree with this statement. Republic Act No. 875 is not "patterned after the labor relations legislation in the United States of America, particularly the Federal Labor Relations Act" (in general). It was *specifically* modelled after the U.S. National Labor Relations Acts, or Wagner Act, not after the Taft-Hartley Act, which is the Labor Management Relations Act. For ready reference, the pertinent parts of the explanatory note to Republic Act No. 875 are quoted on the margin.[4] Neither was it patterned after "the labor relations Acts of the different States." Said explanatory note and the records of the deliberations of our Congress make not a single reference, either to any state law, in particular, or to state laws, in general.

* * * * * * *

In any event, let us consider the pertinent decisions of State courts. For obvious reasons, said decisions vary depending upon the language of the statute involved. In New York, for instance, "employees of charitable, educational and religious associations or corporations" are *specifically excluded* from the coverage of the Act (section 715). As regards *State* laws

containing no such express provision, the authorities are *divided*. Three (3) States—Minnesota, Wisconsin and Utah—follow the Federal view aforementioned, in—

> a) Northwestern Hospital vs. Public Bldg. Service Employees Union (1940), 208 Minn. 389, 294 N.W. 215, involving "a non-profit, charitable corporation operating a public hospital;"
>
> b) Wisconsin Employment Relations Board vs. Evangelical Deacones Society (1943), 242 Wis. 78 7 N.W. 2d. 590, involving a "church society organized as a non-profit corporation;" and
>
> c) Utah Labor Relations Board vs. Utah Valley Hospital (1951), 235 P.2d. 520, 26 ALR 2d 1012, involving a "charitable hospital."

There are two (2) States—Pennsylvania (Western Pennsylvania Hospital vs. Lichliter, 17 A 2d 20, 340 Pa. 382 [1941]; Salvation Army case (1944), 349 Pa. 105, 36 A 2d. 479), and Massachusetts (St. Luke's Hospitals vs. Labor Relations Commission, 320 Mass. 467, 70 N.E. 2d. 10 [1946]—in favor of the minority view among the States of the Union, which is adopted in the majority opinion of this Court. However, in 1944—or before the Massachusetts case had been decided—the soundness of the view of the Supreme Court of Pennsylvania in its two (2) decisions cited above (and quoted with approval in our majority opinion) *was rejected* by the United States Court of Appeals for the District of Columbia, then under the Chief Justice of the Federal Supreme Court, Harlan Fiske Stone, as Circuit Justice. In this connection, the majority opinion in the case at bar says: We cannot subscribe to this claim or contention." But, the language used in National Labor Relations Board vs. Central Dispensary & Emergency Hospital (145 F. 2d. 852, 853), is clear and explicit:

> "Respondent argues that the spirit or policy of the Act is such that we should read into it an exemption of charitable hospitals. In the interpretation of its state

> labor relations act the Pennsylvania court held that even though the words might be broad to include a hospital, nevertheless they could not conceive that the legislature intended to apply the act to such institutions. *We are unable to follow the reasoning of the Pennsylvania court. We cannot understand that considerations of public policy deprive hospital employees of the privilege grunted to the employees of other institutions. The opinions of the Minnesota and the Wisconsin Supreme Courts holding that charitable hospitals and their non-professional employees are subject to the labor relations acts of those states, present what seems to us the only tenable view as to the spirit and policy of such statutes.*" (Italics ours.)

The opinions of the Minnesota and Wisconsin Supreme Court, cited with approval in the foregoing quotation, were those given in Northwestern Hospital vs. Public Building Service Employees' Union (*supra*) and Wisconsin Employment Relations Board vs. Evangelical Deaconness Society (*supra*), which follow the majority view in the United States. Hence, these two (2) cases have the same force and effect, as precedents, as if the decisions therein had been rendered by said federal court. Incidentally, the same could not mention the Supreme Court of Utah, because its decision in Utah Labor Relations Board vs. Utah Valley Hospital (*supra*), adhering to said majority view, was rendered seven (7) years later.

Referring to the case last mentioned, the editor of the American Law Reports Annotated says:

> "* * * *the fact that the definition of the term 'employer' in the act was identical – with that contained in the feideral act prior to 1947 amendment specifically* exempting charitable hospitals was *held to show an intention that such hospitals were within the coverage of the state act* in Utah Labor Relations Board vs. Utah Valley Hospital (1951)—Utah—, 235 P2d 520, 26 ALR 2d 1012, upholding an order of the Board requiring the hospital to enter into collective bargaining with a union since it was guilty of an unfair labor practice, where the union sought to establish itself as the collective bargaining unit for the nonprofessional employees of the hospital, that is, the nurses' aides, and laundry, kitchen, and other maintenance workers. After stating that the purpose of the act was to minimize strikes and strife in labor relations, the court said that *there was no*

> *reason why the position and rights of workers in a hospital were not equally important to the well-being of the community as those of any other employees."* (26 ALR 2d. p. 1026, italics ours)

The reasons adduced in support of this opinion are particularly applicable to the case at bar. Republic Act No. 875 was approved on June 17, 1953, *years after* the Wagner Act had been consistently applied to institutions seeking no material profit. What is more, it was enacted *six (6) years after* the Taft-Hartley; Act had amended the Wagner Act, by the exclusion of non-profit hospitals from the concept of "employer". *Still our Congress approved Section 2 (c) of said Republic Act No. 875, adhering in principle to the definition in the Wagner Act. The inevitable conclusion, therefore, is that our legislative department intended to include civic organizations or charitable institutions within the purview of the term "employer" as used in our Industrial Peace Act.*

Such intention becomes readily understandable when we consider that the right to self-organization is—and has been judicially declared—"a fundamental one." (National Labor Relations Board vs. Jones S. Laughlin Steel Corp., 301 U.S. 1, 33, 34, 81. L. ed. 893, 909, 910). The Catholic Church regards it as a "natural" and "innate" right, which the State must protect, and characterizes its denial as an act of "criminal injustice" (see the Encyclical of May 15, 1891 [Rerum Novarum] par. 38, and the Encyclical of May 15, 1931 [Quadragesimo Anno], par. 30). In short, it is not a right merely created by statute. Labor laws simply "safeguard" it (Amalgamated Utility Workers vs. Consolidated Edison Co. of New York, 309 US 261, 263-264, 85 L. ed. 738, 741; American Steel Foundries vs. Tri-City Central Council, 257 US 184, 209, 66 L. ed. 189, 199). Our Industrial Peace Act *guarantees* said right and *encourages and protects* its exercise (Rep. Act No. 875, sees. l(a), 3 and 4(a)(1). Said right would exist even if the aforementioned laws were repealed (Allen-Bradley Local, etc. vs. Wisconsin Employment Relations Board, 237 Wis. 164, 295 N.W. 791).

The right to self-organization is part of the liberty protected by the due process clause (Art. Ill, section 1(1), of the Constitution), as well as the right of asso-ciation under the Bill of Rights (Art. Ill, section 1 [6]. Both constitutional mandates—it is trite to say—apply to all inhabitants of the Philippines, without exception—to citizens and foreigners alike, *whether their employers are engaged in money making undertakings or not.*

The right to self-organization is, moreover, one of those consecrated in the Universal Declaration of Human Rights (Art. 23 [4], adopted by the General Assembly of the United

Nations, on December 10, 1948, by the vote of 48 nations, *including the Philippines*, without any dissent, although with eight (8) abstentions.[5] As set forth in the Preamble to said Declaration, the same refers to rights which are deemed "*inherent* * * * in all members of the human family." I cannot see, therefore, how we could say—what the eight (8) abstaining members of the UNO dared not say—that the right does not apply to laborers or employees in charitable or non-profit institutions.

By joining in said Declaration, the Republic of the Philippines has not merely acknowledged the *innate* character of the right to self-organization. It has, also, undertaken "to promote respect" therefor and "to *secure*" the universal and *effective* recognition thereof * * * among the peoples of territories under their jurisdiction", in the words of said Declaration. Accordingly, all doubts—if, any—should be resolved in favor of the presumption that Republic Act No. 875 was passed in faithful compliance with the aforementioned commitment, made by the Philippines less than five (5) years before its enactment. Upon the other hand, a finding by this Court—as the highest organ of the State, in the interpretation of its laws—to the effect that the right to self-organization under said statute and its provisions for the protection of said right, are applicable to employees and laborers only in factories and commercial enterprises, may lead to a serious implication in the international field—that the Philippines has not honored its solemn pledge.

It is argued that Republic Act No. 875 is not applicable to the Boy Scouts of the Philippines the same not being an industrial organization, whereas said legislation is entitled "An Act to promote *industrial* peace and for other purposes" and seeks to eliminate the causes of industrial unrest" and "to promote sound stable *industrial peace*." The term "industrial" is an adjective derived from the noun "industry" which has several meanings. Oftentimes, it is used as synonymous with *labor*, work, employment, toil, laboriousness, diligence or perseverance (Roget's International Thesaurus, New Ed., pp. 472, 477; Weifenback vs. City of Seattle, 76 P. 2d. 589; Webster's New International Dictionary of the English Language, 1938, 2d. ed., p. 1270), or as descriptive of *laborers as a body* (see Funk & Wagnalls New Standard Dictionary of the English Language, 1952 ed. p. 1255). At other times, it is used to refer to any "department or branch of art, occupation or business conducted for a livelihood or for profit, * * * specially to a distinct branch of trade in which labor and capital are extensively employed" (Weatherford vs. Arter, 63 S.E. 2d. 572, 574, 135 W. Va. 391; People vs. Maggi, 39 N.E. 2d. 317, 318, 378 111. 595). In a more restricted sense, industry is that branch of activity "whereby man changes and makes for his use materials which were unserviceable in their natural state" (Seltenreish vs. Town of Fairbanks, D.C. Alaska, 103 F. Supp. 319, 334). As a consequence, the adjective "industrial"

is, also, used to refer to matters pertaining, either (1) to labor, or (2) to trade and commerce, or (3) to the processes for the fashioning of raw materials into a change of form for use (see, Webster's New International Dictionary and Funk & Wagnalls New Standard Dictionary, *supra*). In what sense is the term used in Republic Act No. 875?

The very opinion of the majority says that said Act is patterned after the *labor relations* legislation in the United States of America, particularly, the Federal *Labor Relations* Act. Thus, our lawmakers have merely substituted the term "industrial" for the phrase "labor relations" used in the American counterpart of Republic Act No. 875. In other words, to my mind, as used therein the word "industrial" connotes in general, "labor relations"; that the phrases "industrial peace" and "industrial dispute", found in said Act, simply mean, respectively, "peace in the relations between capital and labor" and "dispute between employers and employees"; and that the "Court of Industrial Relations", as the counterpart—with some modifications—of the U.S. National Labor Relations Board, is called upon to settle issues involving "labor relations" or con-troversies or disputes between capital and labor, and between employers and employees.

I do not believe it warranted to hold, as the majority opinion intimates, that Republic Act No. 875, as a whole, applies only to laborers or employees in factories or mercantile establishments and to the latter. There are several provisions in said Act—aside from sections 3, 4 and 5—that are clearly meant to apply, also, to other workers.

For instance, "employment in the Government," including its subdivisions and instrumentalities, is, pursuant to section 11 of Republic Act No. 875, excluded from the operation of said Act, *only* in the sense that the "terms and conditions of employment" are "governed by law" and that "it is the declared 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". Said section provides, also, that "*such employees may belong to any labor organization* which does not impose the obligation to strike or to join in strike." and that the prohibition therein contained "shall apply *only* to employees in *governmental* functions and *not* to those employees in *proprietary* functions of the government including but not limited to governmental corporations." In other words, *the right to self-organization is extensive to all employees of the Government*, including its subdivisions and instrumentalities, *without any distinction whatsoever*, whether performing governmental functions or proprietary functions and *regardless of whether operated for profit or not*.

Again, section 8 of Republic Act No. 875[6] "nullifies *every* undertaking" in "*any* contract" of

employment, whereby either party thereto promises: (a) "not to join, become or remain a member of any labor organization"; or (6) to "withdraw from an employment relation in the event that he joins, becomes or remains a member of any labor organization"; or (c) "to permit the commission of any of the unfair labor practices denned in section four" of said Act. It is clear from the broad and emphatic language used in said section 8 that same applies to any and all contracts of employment, whether the employer is engaged in commerce or not, and that its purpose is to protect the right to self-organization of all laborers, workers or wage-earners, *without any discrimination whatsoever*.

Similarly, section 9 of Republic Act No. 875 regulates the issuance of restraining orders "in *any* case involving or growing out of labor dispute." Section 12 prescribes the rules governing the "exclusive collective bargaining representation for labor organization." The "duty to bargain collectively," the "procedure of collective bargaining," the "violation of the duty to bargain collectively" and the "administration" of collective bargaining agreements and the "handling of grievances", are the subject-matter of sections 13, 14, 15 and 16, whereas section 17 touches on the "rights and conditions of membership in labor organizations." Sections 18, 19, 20 21, 22 and 23, provide, respectively, for the establishment of a "conciliation service", the "compilation of collective bargaining agreements," the holding of "labor—management conferences", the organization of an "advisory Labor-Management Council", the "study of industrial relations" and the "registration of labor organizations." The "rights of labor organizations" are specified in section 24, and section 25 provides penalties for violations of the Act.

It is, also, important to note that one of the agencies charged with the administration and enforcement of Republic Act No. 875—apart from the Court of Industrial Relations—has applied it to charitable or non-profit organizations. Thus, for instance, the Boy Scouts of the Philippines Employees Welfare Association organized and presided by respondent, Mrs. Araos is—like similar unions of employees or laborers of other charitable or non-profit organizations, such as the *U.S.T. Employees and Laborers Association, the U.S.T. Hospital Employees Association* (U.S.T. Hospital Employees Association vs. Santo Tomas University Hospital, 95 Phil., 40) and the *University of the Philippines Employees Welfare Association—duly registered in the Department of Labor*, pursuant to section 23 of said Act, which creates the position of Registrar of Labor Organizations, defines his duties, prescribes the procedure for the registration of "*any* labor organization or union of workers, duly organized for the material, intellectual and moral well-being of its members," and for the cancellation of said registration. Said section 23 merely *qualifies* and *expands* the provisions of Commonwealth Act No. 213, which declares that "a legitimate labor

organization is an organization, association or union of laborers *duly registered and permitted to operate by the Department of Labor*, and governed by a constitution and by-laws not repugnant to or inconsistent with the laws of the Philippines," which is substantially identical to the definition given by Republic Act No. 875, pursuant to section 2 of which:

> "(f) 'Legitimate labor organization' means any labor organization *registered* by the Department of Labor, and includes any branch or local thereof." (Italics ours.)

Hence, the Boy Scouts of the Philippines Employees Welfare Association, and said other labor unions likewise registered in the Department of Labor, are legitimate labor organizations," under both laws, and *have been considered subject to the provisions thereof by saijid Department.*

A mere perusal of the above-mentioned sections will suffice to show that it would be very hazardous for us to declare that Republic Act No. 875 does not apply to enterprises not engaged in trade or industry—in its strict sense—or to its laborers or employees. Does this Court mean to hold, for instance, that the Department of Labor may not, pursuant to section 23 of Republic Act No. 875, cancel the registration of the Boy Scouts of the Philippines Employees Welfare Association or of the association of employees and laborers of other non-profit or charitable institutions, if the officers of said labor organizations were "members of the Communist Party" or of "any organization which teaches the overthrow of the Government by force or by any illegal or unconstitutional method;" or if any of said labor organizations should fail to file, either "its financial report." or "the names of its new officers along with their non-subversive affidavits as outlined in paragraph (b)" of said section, within the time prescribed therefor; or if any of said labor organizations is declared to be a company union?

It may be argued that we are not called upon to interpret all sections of Republic Act No. 875 and that we are merely passing upon the applicability to the Boy Scouts of the Philippines of the provisions of said Act relative to unfair labor practices. However, the majority opinion says:

> "On the basis of the foregoing consideration, there is every reason to believe that our labor legislation from Commonwealth Act No. 103 creating the Court of Industrial Relations, down through the Eight-Hour Labor Law, to the Industrial Peace Act, was intended by the Legislature to apply only to industrial employment and to govern the relations between employers engaged in industry and occupations for purposes of profit and gain, and their industrial employees, but not to organizations and entities which are organized, operated, and maintained not for profit or gain, but for elevated and lofty purposes, such as, charity, social service, education and instruction, hospital and medical service, the encouragement and promotion of character, patriotism and kindred virtues in the youth of the nation, etc."

Thus, literally, we hold "that the *Industrial Peace Act* was intended to apply only to industrial employment and to govern the relations between employers engaged in industry and occupations for purposes of profit or gain and their industrial employees." Besides, the dispositive part of the majority opinion, likewise, states. "In conclusion, we find and hold that Republic Act No. 875, particularly, that portion thereof regarding labor disputes and unfair labor practices, does not apply to the Boy Scouts of the Philippines."

Again, I find in said opinion nothing "particularly" tending to show the difference between the provisions of Republic Act No. 875 relative to labor disputes and unfair practices, on the one hand, and the remaining provision of said Act, on the other. In fact, the provisions regarding unfair labor practices merely safeguard the right to self-organization, which, as above indicated, is a "fundamental right" protected by the Constitution, a "natural" and "universal" right, "inherent" in "all members of the human family." Accordingly, i§ some, provisions of said Act are applicable to laborers and employees in charitable institutions or non-commercial enterprises—and this, I believe, cannot be denied—*there are decidedly the most cogent reasons for the application to said institutions or enterprises of the provisions guaranteeing the right to self-organization, defining unfair labor practices, and determining the jurisdiction and procedure for the prevention of such practices*.

With respect to labor disputes, Republic Act No. 875 contains two (2) provisions thereon: (1) section 9, regulating the issuance of injunctions in labor disputes; and (2) section 10, authorizing compulsory arbitration "when in the opinion of the President of the Philippines

there exists a labor dispute in an industry indispensable to the national interest and * * * such labor dispute is certified by the President to the Court of Industrial Relations." The applicability of these provisions to the Boy Scouts of the Philippines is not in issue in the case at bar. It has not been raised in the pleadings. Under the circumstances, I doubt, to say the least, our authority to hold herein that writs of injunction may be issued to restrain any of the acts specified in said section 9, without complying with the requirements thereof, where the employer is a non-profit organization, like the Boy Scouts of the Philippines.

Neither am I prepared to declare that the Court of Industrial Relations could not forbid the employees of such organization from striking, if the President entertained the opinion and issued the certification referred to in section 10. I believe that this matter deserves serious consideration, and should not be passed upon, unless directly in issue, on account of the grave consequences flowing therefrom.

Let us suppose that the Boy Scouts of the Philippines and the Philippine Red Cross, as well as other similar civic organizations, should expand the operation thereof to such, degree that, in the course of time, a substantial portion of the relief work and/or social welfare activities of the nation are, eventually, borne by said organizations. Let us suppose, further, that we have a great calamity, like an earthquake or an epidemic; that its evil effects are of such magnitude as to require the determined and concerted efforts of everybody; and that, taking advantage of this situation, the employees of said organizations demand better conditions of labor, under threat to strike, if their demands are not heeded. Is the Court now ready to hold that compulsory arbitration by the Court of Industrial Relations and an order thereof prohibiting the strike would not be feasible under said section 11, even if the President were of the opinion, and issued the certificate, therein mentioned. It should be noted that said eventuality is not a remote possibility, not only because devastating typhoons are not unusual in the Philippines, but, also, because of the modern trend to shift to civic institutions the burden of providing relief to the needy.

The case of Office Employees International Union vs. National Labor Relations Board (235) F. 2d. 832), cited in the majority opinion, in support thereof, is authority in favor of respondent herein. Petitioner therein, *a labor union*, had charged *other* organizations, *mostly unions*, with alleged unfair labor practices. The National Labor Relations Board found that the respondent unions were "non-profit organizations," with respect to which—the Board said—*it asserted jurisdiction*" only in, exceptional circumstances. It held also, that the activities of said unions were such that the "policies" of the National Labor Relations Act "would not be effectuated by asserting jurisdiction in the proceedings, and so

it dismissed the complaints in their entirety." On appeal, the Circuit Court refused to disturb the action of the board, upon the ground that its decision "fell within the broad *discretion* which seems to be established as applicable to the Board's action in entertaining complaints."

It will be noted that both the National Labor Relations Board and the Federal Court assumed that the first *had* jurisdiction over the issues raised and over the parties. However, said Board had, under the federal law, *discretion to exercise* or not said authority, depending upon the importance, nature or effect of the activities of the parties concerned or of the irregularities charged. In refusing to say that said discretion had been abused, the Circuit Court cited the doctrine, laid down by the Supreme Court of the United States in National Labor Relations Board vs. Denver Bldg. & Const. Trades Council (341 U. S. 675, 95 L. ed. 1284 [1951], to the effect that:

> "Even when the effect of activities on interstate commerce is *sufficient to enable the Board to take jurisdiction* of a complaint, the Board sometimes properly declines to do so, stating that the policies of the Act would not be effectuated by its assertion of jurisdiction in that case." (235 F. 2d. 833.) (Italics ours.)

Indeed:

> "* * * By the Wagner Act, Congress gave the Board authority to prevent practices tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce.' Section 2 (7) of the National Labor Relations Act (July 5, 1935) 49 Stat. 449, 450, c 372, 29 USCA sec. 152 (7), 8 PCA title 29, sec. 152 (7). Congress therefore left it to the Board to ascertain whether prescribed practices would in particular situations ad-versely affect commerce when judged by the full reach of the constitutional power of Congress. (Polish National Alliance vs. N.L.R.B., 322 US 643, 648, 88 L. ed. 1509, 1515.)

Again, with respect to the charges of unfair labor practice filed by the Office Employees

International Union, the Board found—and the Circuit Court did not disturb the finding—that *the respondent unions were "employers" with respect to their own employees, within the purview of section 2 (2) of the U.S. National Labor Relations Act* (as amended by the Taft-Hartley Act), and this notwithstanding the fact that said unions were "non-profit organizations." This confirms the fact that the term "commerce", as used in said Act, does not refer solely to enterprises seeking material gain. It includes, also, activities involving intercourse among States of the Union.

The majority says:

> "* * * We see no incompatibility between said recongnition by our country of the right to self-organization and the non-application of our Industrial Peace Act to charitable institutions. The employees and laborers in these charitable institutions are not probihited from organizing and joining a labor union. Even section 11 of our Industrial Peace Act entitled 'Prohibition Against Strikes in the Government', provides that government employees may belong to any-labor organization provided that said organization does not impose the obligation to strike or to join any strike. There can be no valid legal objection to the employees and laborers of, say, the Red Cross, the Boy Scouts, or a charity hospital organizing themselves into an association or in joining a labor union. The line is drawn only *when they try to compel the management to bargain and if refused, resort to coercive measures which may frustrate or paralyze the purpose and activities of these institutions.*" (Italics ours.)

That line has not been reached, however, in the case at bar. There has been no attempt, either to compel the management of petitioner herein to bargain with the labor union organized by Mrs. Araos, or to resort to coercive measures which may frustrate or paralyze the purposes and activities of said petitioner. Upon the other hand, *of what use would it be to acknowledge the right of laborers or employees in charitable institutions to organize themselves into labor unions and operate the same, if they could legally be dismissed for joining a union or for engaging in union activities?* In fact, their predicament would then be *worse* than it was before the statutory recognition of said right, for it could be said—and not without justification— that *the State had induced them*[7] *to establish labor organizations and*—if the majority opinion were correct—*thus placed them at the mercy of the employer*,

for he could thereby impose his terms, under threat of dismissal for union membership or activities.

During our deliberations on the case at bar, the question was posed whether the relief against violations of the right to self-organization, when employees in charitable institutions are involved, may be sought from the ordinary courts of justice, not the Court of Industrial Relations. In my opinion, the answer should be in the negative, among other reasons, because:

1. The violation of said right in the case at bar is an unfair labor practice, and the jurisdiction of the Court of Industrial Relations "over the prevention of unfair labor practices" is *exclusive and shall not be affected by any other means of adjustment or prevention that has been or may be established* by an agreement, code, law or otherwise", pursuant to section 5 (a) of Republic Act No. 875.

2. The prevention of unfair labor practices is a necessary means for the protection of the right to self-organization of "employees" under section 3 of the Act- As used therein, "the term 'employee' shall include *any employee* and *shall not be limited to the employee of a particular employer* unless the Act *explicitly* states otherwise * * *" (sec. 2 (d), and said *Act does not explicitly states that employees in charitable institutions are excluded from its operation*.

3. Since this phase of our Industrial Peace Act is patterned after the Wagner Act, the settled interpretation thereof must be deemed part of our law. Referring to the Wagner Act, the Supreme Court of the United States expressed itself in the following unmistakable term:

> "* * * it is apparent that Congress has entrusted to the Board *exclusively* the prosecution of the proceeding by its *own* complaint, the conduct of the hearing, the adjudication and the granting of appropriate relief. The Board as a public agency, *acting in the public interest*, not any private person or group, not any employee or group of employees, is *chosen as the instrument to assure protection from described unfair conduct in order to remove obstruction to interstate commerce.*

"When the Board has made its order, the Board *alone* is authorized to take proceedings to enforce it. For that purpose the Board is empowered to petition the Circuit Court of Appeals for decree of enforcement. The court is to proceed upon notice to those against whom the order runs and with appropriate hearing. If the court, upon application by either party, is satisfied that additional evidence should be taken, it may order the Board, its member or agent, to take it. The Board may then modify its findings of fact, and make new finds. The jurisdiction conferred upon the court is exclusive and its decree is final save as it may be reviewed in the customary manner. Again, the Act gives no authority for any proceeding by a private person or group, or by any employee or group of employees, to secure enforcement cf the Board's order. *The vindication of the desired freedom of employees is thus con-fided by the Act, by reason of the recognized public interest, to the public agency the Act creates.* * * *.

"In the Senate, the Committee on Education and Labor in its report on the bill said:

> 'Section 10 (a) gives the National Labor Relations Board *exclusive* jurisdiction to prevent and redress 'unfair labor practices, and, taken in conjunction with section 14, estalishes clearly that *this bill is paramount over other laws that might touch upon similar subject matters*. Thus *it is intended to dispel the confusion resulting from dispersion of authority and to establish a single paramount administrative or quasi-judicial authority* in connection with the development of the Federal American Law regarding collective bargaining. "And the Committee on Labor of the House of Representatives in its report stated: 'The Board is empowered, according to the procedure provided in section 10, to prevent any person from engaging in any unfair labor practice listed in sec. 8 'affecting commerce' as that term is defined1 in sec. 2 (7). This power is vested *exclusively* in the Board and is not to be affected by any

> other means of adjustment or prevention. *The Board is thus 'made the paramount agency for dealing with the unfair labor practices* described in the bill.

"After referring to the suitable adaptation of the Board's order to the need of particular cases, and especially to the power to reinstate employees with or without back pay, the Committee continued:

> *No private right of action is contemplated. Essentially the unfair labor practices listed are matters of public concern, by their nature and consequences, present or potential;* the proceeding is in the name of the Board, upon the Board's formal complaint. The form of injunctive and affimative order is necessary to effectuate the purpose of the bill to remove obstructions to interstate commerce which are by the law declared to be detrimental to the public 'weal.' * * *.

"We think that the provision of the National Labor Relations Act conferring *exclusive* power upon the Board to prevent any unfair labor practice, as defined,—a power not affected by any other means of 'prevention that has been or may be established by agreement, code, law, or otherwise'—necessarily embraces *exclusive* authority to institute proceedings for the violation of the court's decree directing enforcement. The decree in no way alters, but confirms, the position of the Board as the enforcing authority. It is the Board's order en behalf of the public that the court enforces. It is the Board's right to make that order that the court sustains. *The Board seeks enforcement as a public agent*, not

> to give effect to a 'private administrative remedy.' Both the order and the decree are aimed at the prevention of the unfair labor practice. If the decree of enforcement is disobeyed, the unfair labor practice is still not prevented. *The Board still remains as the sole authority to secure that prevention*. The appropriate procedure to that end is to ask the court to punish the violation of its decree as a *contempt*. As the court has *no* jurisdiction to enforce the order at the suit of any private person or group of persons, we think it is clear that the court cannot entertain a petition for violation of its decree of enforcement *save as the Board presents it*.' (Amalgamated Utility Workers vs. Consolidated Edison Co. of New York, 309 US 261, 265-270, 84 L. ed. 738, 742-744; Italics ours.)

4. The Philippines took part in the 32nd session of the International Labor Conference held in Geneva in 1949. Convention No. 98, concerning the application of the Principles of the Right to Organize and to Bargain Collectively, was approved in that conference. Among the principles enunciated in said convention were the following, namely: that "workers shall enjoy *adequate protection* against acts of anti-union discrimination in respect to their employment", more particularly in respect of acts calculated to "cause dismissal or otherwise prejudice a worker by reason of union membership or because of participation in union activities" (Art. 1) ; and that "workers' and employers' organizations shall enjoy *adequate protection* against any acts of interference by each other's agents or members in their establishment, functioning or administration" (Art. 2). In this connection, it will be recalled that courts in the United States had already held that the *adequate protection* of the right to self-organization demanded that the authority of the National Labor Relations Board to prevent unfair labor practices be *exclusive*. Moreover, less than a month before the approval of said convention, a resolution had been passed to the effect, among other things, that "*labour courts should be exclusively competent* to take cognizance of disputes, relating to the interpretation or application of individual labour contracts, collective agreements *and social legislation*." (The International Labour Code, 1951, Vol. II, p. 694).

By resolution No. 140, approved on May 21, 1953, the Senate of the Philippines concurred in the ratification of several Conventions adopted by the International Labour Conference from 1948 to 1951. Among these conventions were said Convention No. 98 and Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize (adopted on July 9, 1948). Article 2 of said Convention No. 87 reads:

> "Workers and employers, *without distinction whatsoever*, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization." (Italics ours.)

Article 11 of the same Convention states that:

> "Each Member of the International Labour Organization for which this Convention is in force undertakes to take all necessary and appropriate measures to *ensure* that workers and employers may exercise freely the right to organize." (Italics ours.)

Considering that the explanatory note to the Bill that became Republic Act No. 875, explicitly declares that the same is "substantially in accord" with said convention No. 98, and that the ratification of the same and that of said Convention No. 87, were Concurred in by our Senate on May 21, 1953, we must presume that our Industrial Peace Act, which was approved *less than a month later* (June 17, 1953), seeks to carry out the principles aforementioned, unless the contrary should appear in a positive and clear manner, and, I think, it does not so appear.

"Digressing" on "*some* of the reasons for the promulgation of labor relations laws, not excluding the Industrial Peace Act," the majority says:

> "* * * The State feels that *when* the capitalists and management make *substantial* and sometimes *excessive* profits, labor should receive a reasonable share in said profits in the form of *fair* wages* * * . Naturally, *the reason* for the promulgation and operation of these labor relations acts to aid laborers and employees in general, is absent" (in the case of benevolent or charitable institutions) "and there would be no excuse or occasion for resort to coercive measures like strikes, in order to force these institutions to bargain and pay higher wages." (Italics

ours.)

The flaw in this conclusion becomes apparent when we consider that, pursuant to the major premise upon which it is predicated, the intent to- give to the laborers a share in the "substantial and sometimes excessive profits" made by the "capitalists and management," is merely *one* of the several or "*some* reasons for the promulgation of labor relations laws." Yet, upon the minor premise that such one reason is absent in the case of charitable or non-profit organizations, the majority deduces that the same are not subject to said laws. In short, this inference either overlooks the *other* reasons for the law or assumes that the latter has *only one* reason or objective, thus contradicting the major premise of the syllogism.

At any rate, insofar as the majority intimates that profit-sharing is the sole aim of Republic Act No. 875, it will be noted that no legal provision, decision, explanatory note, portion of the Congressional Record, or opinion of any recognized authority on social legislation, has been cited in support of the majority view. On the contrary, the same is inconsistent with the Federal decisions, which hold unanimously that charitable and non-profit organizations are subject to the Wagner Act—after which our Republic Act No. 875 has been modelled—and, also, to the Taft-Hartley Act (except charitable hospitals). Further-more, whereas the Workmen's Compensation Law (Act No. 3428) *expressly* limits its scope to employers engaged in the exercise of a "trade, occupation or profession * * * *for the purpose of gain*" (sec. 39 [d], as amended by Republic Act No. 772), Republic Act No. 875 contains no similar provision, thus indicating that "the purpose of gain" is alien to its application. So, too, if the idea of Congress were to give to the laborers and employees, "*when* the capitalists or management make *substantial* and sometimes *excessive* profits," a share therein, then the employer would have been exempted from liability by law whenever the operation of his business results in losses. But, there is no such exemption in his favor. Again, said majority view insinuates that the employees in commercial or industrial enterprises would not be entitled to *fair* wages, "when the capitalists or management" do not make any profit, or, even if they made some profit, "when" the same is neither "excessive" nor "substantial". Apart from not being borne out, either by Republic Act No. 875, or by the other labor laws in the Philippines, a mere statement of the implication of said view constitutes a refutation thereof, if it is not already refuted by the other portions of the majority opinion, which concedes the applicability of the Industrial Peace Act to employees in all commercial and industrial establishments, regardless of whether the same make profits or suffer losses.

Lastly, the majority calls attention of the "disastrous" consequences which may result should Republic Act No. 875 apply to charitable and non-profit organizations, because its employees might demand higher wages and stage strikes precisely on "the occasion of a calamity, such as a destructive typhoon, flood/ earthquake, etc." Paradoxical as it may seem, it is the very majority opinion that stands in the way of the avoidance of the aforementioned consequences. Independently of whether Republic Act No. 875 applies or not to charitable or non-profit institutions, its employees are entitled to join labor unions, and this is admitted by the majority. Similarly, whether constituting, or affiliated to a labor union or not, said employees might stage a strike. If non-profit enterprises were not subject to Republic Act No. 875, as the majority opines, the Court of Industrial Relations could not exercise the authority granted thereto, in section 11 of said Act, to prohibit said strike. Thus, the aforementioned "consequences" would result, *not* from the application of the Industrial Peace Act to said institutions, but from its non-application, as advocated by the majority.

Moreover, *the consequences of strike could be more disastrous*—not only during a national emergency, but also, during normal times—when staged in important sectors of trade or industry, like those engaged in supplying electric power or means of transportation and communication, or in the production and distribution of prime commodities, and yet such trades and industries *are* subject to *Republic Act No. 875. Indeed, Republic Act No. 875 was enacted precisely to avert such consequences.*

As I see it—and this is manifest in the digression already adverted to—the majority opinion hinges upon the assumption that *strikes are promoted by the organization of labor unions*, which, in turn, is encouraged by Republic Act No. 875. *In effect, the majority believes that said Act is the cause of strikes and that the evils resulting from the application of such legislation should be minimized*, therefore, by restricting the sphere of its operation through judicial interpretation. The majority opinion is permeated by the feeling that Republic Act No. 875 tends to obstruct industrial peace, that it sows and nurtures the seeds of industrial unrest or paves the way therefor, that it is bound to weaken the foundation of industrial peace, that it is likely to hinder the amicable settlement of issues between employers and employees, and that is prone to accentuate or increase the differences between them. Needless to say, this is neither the purpose nor the spirit of Republic Act No. 875.

What is more, the majority view is inconsistent with that of Congress in passing Republic Act No. 875. As set forth in the title and in section 1 thereof, which are borne out by the other provisions of said Act, its objective is to "eliminate the causes of industrial unrest" and "promote industrial peace." The law expects and proposes to achieve this goal "by

encouraging and protecting the exercise by the employees of the right to self-organization", by "the settlement of issues respecting terms and conditions of employment through the process of collective bargaining", by advancing the settlement of these issues through the use of "adequate governmental facilities for conciliation and mediation" as therein provided, and by avoiding or minimizing the differences which arise between the parties to collective bargaining" agreements, through adherence to certain rules, specified in said Act, "in the negotiation and administration of" said agreements, etc. (Rep. Act No. 875, sec. 1.) Being, thus, of the belief that the Industrial Peace Act is conducive to the promotion of the general welfare of society, Congress has ordained that its provisions be applied to all employees not expressly exempted therefrom, as well as to all employees, "unless the Act *explicitly* states otherwise." In other words, the law contemplates and demands a liberal, not restrictive, interpretation of its provisions, in favor of the extension of what it considers its beneficient effects, to the greatest possible number of employers and employees and/or classes thereof.

We may not share this belief. We disagree with the soundness of the opinion of Congress. But, such belief and opinion underlie the philosophy of the law. In fact, they constitute its spirit and essence, which it is the duty of the courts of justice to enforce, whatever their view may be on the wisdom of the law, for the same is beyond the pale of judicial review (U. S. vs. Ten Yu, 24 Phil., 1, 10-11; U. S. vs. Estopia, 37 Phil., 17, 26; Cruz vs. Youngberg, 56 Phil., 234, 238; Director of Lands vs. Abaja, 63 Phil., 559, 565). The role of said courts is to settle justiciable controversies by the application of the law *as it is, not as it should be* in the opinion of the Judges (Lizarraga Hermanos vs. Yap Tico, 24 Phil., 504; Lambert vs. Fox, 26 Phil., 588; Commonwealth vs. Hall, 291 Pa. 341, 58 ALR. 1023; Osborn vs. Bank of the U. S., 9 Wheat. 738, 6 L. ed. 234). In the words of Mr. Justice Montemayor, speaking for this Court, in Quintos vs. Lacson, 97 Phil., 290, 51 Off. Gaz. (7) 5429.

> "* * * As long as laws do not violate any Constitutional provision,, the Courts merely interpret and apply them *regardless of whether or not they are wise or salutary*." (Italics ours.)

Wherefore, I am constrained to vote for the affirmance of the decision appealed from.

Endencia, and *Reyes J.B.L., JJ.,* concur.

Decision and resolution set aside.

---

[1] "Sec. 4. Unfair Labor Practices.—

(a) It shall be unfair labor practice for an employer:

(1) To interfere with; restrain or coerce employees in the exercise of their rights guaranteed in section three;

(2) To require as a condition of employment that a person or an employee shall not join a labor organization or shall "withdraw from one to which he belongs;

(3) To initiate, dominate, assist in or interfere with the formation or administration of any labor organization or to contribute financial or other support to it;

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

(5) To dismiss, discharge, or otherwise prejudice or discriminate against an employee for having filed charges or for having given or being about to give testimony under this Act;

(6) To refuse to bargain collectively with the representatives of his employees subject to the provisions of sections thirteen and fourteen.

(b) It shall be unfair labor practice for a labor organization or its agents:

(1) To restrain or coerce employees in the exercise of their rights under section three, provided that this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein;

(2) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a) or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than the usual terms and conditions under which membership or continuation or membership is made available to other members.

(3) To refuse to bargain collectively with the employer, provide! it is the representative of the employees subject to the provisions of Sections thirteen and fourteen.

(4) To cause or attepipt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value in the nature of an exaction for services which are not performed or not to be performed." (Italics ours.)

[2] 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 modification 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 and not those employed in proprietary functions of the Government including *but not limited* to governmental corporations. (Italics ours.)

[3] The bill excepted: "*any* corporation, community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise intended to influence legislation." (Italics ours).

[4] "The attached bill entitled, 'An Act to Promote Industrial Peace.' seeks to improve existing legislation on the subject of in-dustrial relations. It views the problem of industrial relation, as a whole and consider its various aspects in the relation to each other under a well-defined national policy stated in Section 2.

"The bill is substantially in accord with Convention No. 98 concerning the application of the principles of the Right to Organize and to Bargain Collectively, which was approved by the International Labor Conference in the course of its 32nd Session held last year. It is also modelled partly after the United States' National Labor Relations Act.

Labor Organizations

"Free collective bargaining is not possible where one of the parties is in. a position to impose its will upon the other. It is, therefore, of primary importance that workers should be enabled to possess a bargaining power at least equal to that of the employers and that they should be fully protected in the exercise of their rights to self-organization.

"The experience under Commonwealth Act No. 213 which now regulates the subject has shown the need for *further safeguards* to the right of workers to organize. The attached bill seeks to provide, these safeguards, following the pattern of *United States National Labor" Relations Act, with suitable modifications demanded by local conditions*. (*Secs. 4-8*).

* * * * * * *

"For purposes cf economy, the bill does not create a separate agency like the United States' *National* Labor Relations Board. The Court of Industrial Relations is given the power to prevent unfair labor practices while the Department of Labor is given the responsibility, in addition to the function of registering labor organizations, of dealing with questions or representation of employees.

"A legitimate labor organization designated by the majority of the employees in a collective bargaining unit (employer,. unit, craft unit, or plant unit) may be certified as the exclusive bargaining representative of all the employees in such unit. (Sec. 19.) This provision is adopted from a similar one in the *United States National Labor Relations Act* and is intended to insure uniformity in the standards of employment in a company or plant. (Italics ours.)

[5] Byelorussian SSR, Czechoslovakia, Poland!, Saudi Arabia, Ukrainian SSR, Union of South Africa, USSR, Yugoslavia.

[6] "Sec. 8. *Private Contracts Contravening Employee Rights*. —*Every* undertaking or promise hereafter made, whether written or oral, express or implied, constituting or contained in any contract or agreement of hiring or employment between *any* individual firm, company, association or corporation and any employee or prospective employee of the same shall be null and void if thereby—

"(a) Either party to such contract or agreement undertakes or promises not to join, become or remain a member of any labor organization or of *any* employer organization; or

"(b) Either party to such contract or agreement undertakes or promises that he will withdraw from an employment relation in the event that he joins, becomes or remains a member of *any* labor organization or of any employer organization.

"(c) Either party undertakes or promises to permit the commission of any of the unfair labor practices defined in section four hereof." (Italics ours.)

[7] The "policy" of Republic Act No. 875 is to encourage and protect the exercise by employees of their right to self-organization"— and, according to its explanatory note, to provide "further safeguards to the right to workers to organize"—not to create such right, or merely to acknowledge it.

Date created: April 29, 2015