

BALDOMERO S. LUQUE AND OTHER PASSENGERS FROM THE PROVINCES OF CAVITE AND BATANGAS; AND PUBLIC SERVICE OPERATORS FILO-MENA ABALOS, AND OTHERS, PETITIONERS, VS. HON. ANTONIO J. VI...

G.R. No. L-22545. November 28, 1969

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Challenged as unconstitutional, illegal and unjust in these original proceedings for certiorari and mandamus are two sub-stantially identical bus ban measures: (1) Ordinance No. 4986 of the City of Manila approved on July 13, 1964, entitled "An Ordinance Rerouting Traffic on Roads and Streets in the City of Manila, and for Other Purposes", and (2) Administrative Order No. 1, series of 1964, dated February 7, 1964, and Administrative Order No. 3, series of 1964, dated April 21, 1964, both issued by Commissioner Enrique Medina (herein-after referred to as the Commissioner) of the Public Service Commission.

Original petitioners are passengers from the provinces of Cavite and Batangas who ride in buses plying along the routes between the said provinces and Manila. Other petitioners are public service operators operating PUB and PUJ public service vehicles from the provinces with terminals in Manila, while the rest are those allegedly operating PUB, PUJ or AC motor vehicles operating within Manila and suburbs.

Ordinance 4986, amongst others, provides that:

**"RULE II. ENTRY POINTS AND ROUTES OF
PROVINCIAL PASSENGER BUSES AND JEEPNEYS**

1. Provincial passenger buses and jeepneys (PUB and PUJ) shall be allowed to enter Manila, but only through the following entry points and routes, from 6:30 A.M. to 8:30 P.M. every day except Sundays and holidays:

x x x

(m) Those coming from the south through F. B. Harrison shall proceed to Mabini; turn right to Harrison Boulevard; turn right to Taft Avenue and proceed towards Pasay City;

(n) Those coming from the south through Taft Avenue shall turn left at Vito Cruz; turn right to Dakota; turn right to Harrison Boulevard; turn right to Taft Avenue; thence proceed towards Pasay City;

Loading and unloading shall be allowed only at Harrison Boulevard, between A. Mabini and Taft Avenue;

x x x

RULE III. FLEXIBLE SHUTTLE BUS SERVICE

1. In order that provincial commuters shall not be unduly inconvenienced as a result of the implementation of these essential traffic control regulations, operators of provincial passenger buses shall be allowed to provide buses to shuttle their passengers from their respective entry control points, under the following conditions:

(a) Each provincial bus company or firm shall be allowed such number of shuttle buses proportionate to the number of units authorized it, the ratio to be determined by the Chief, Traffic Control Bureau, based on his observations as to the actual needs of commuters and traffic volume; in no case shall the allocation be more than one shuttle bus for every 10 authorized units, or fraction thereof.

(b) No shuttle bus shall enter Manila unless the same shall have been provided with identification stickers as required under Rule IV hereof, which shall be furnished and allocated by the Chief, Traffic Control Bureau to each provincial bus company or firm,

(c) All such shuttle buses are not permitted to load or unload or to pick and/or drop passengers along the way but must do so only in the following places:

x x x

(3) South

(a) Harrison Boulevard, between Dakota and Taft Avenue."

Administrative Order No. 1, series of 1964, issued by the Commissioner, in part, provides:

"2. All public utilities including jeepneys heretofore authorized to operate from the City of Manila to any point in Luzon, beyond the perimeter of Greater Manila, shall carry the words 'For Provincial Operation' in bold and clear types on both sides or on one side and at the back of the vehicle and must not be less than 12 inches in dimension. All such vehicles marked 'For Provincial Operation' are authorized to operate outside the perimeter of Greater Manila in accordance with their respective certificates of public convenience, and are not authorized to enter or to operate beyond the boundary line fixed in our order of March 12, 1963 and July 22, 1963, with the exception of those vehicles authorized to carry their provincial passengers thru the boundary line up to their Manila terminal which shall be identified by a sticker signed and furnished by the PSC and by the Mayors of the affected Cities and municipalities, and which shall be carried on a prominent place of the vehicle about the upper middle part of the windshield.

x x x

All such public utility vehicles authorized by this Order to enter the City of Manila and to carry their passengers thru the boundary line, are not permitted to load or unload or to pick and/or drop passengers along the way, but must do so only in the following places:

x x x

c. Vehicles coming from the SOUTH may load or unload at the San Andres-Taft Rotonda; at Plaza Lawton or at the Corner of Harrison and Mabini Streets near the Manila Zoo."

On April 21, 1964, the Commissioner issued Administrative Order No. 3 which resolved motions for reconsideration (of the first administrative order - Administrative Order No. 1, series of 1964) filed by several affected operators. This order (No. 3), amongst others, states that only 10% of the provincial buses and jeepneys shall be allowed to enter Manila; however, provincial buses and jeepneys "operating within a radius of 50 kms. from the Manila City Hall and whose business is more on the Manila end than on the provincial end are given fifteen percent to prevent a dislocation of their business; provided that operators having less than five units are not

permitted to cross the boundary and shall operate exclusively on the provincial end," This order also allocated the number of units each provincial bus operator is allowed to operate within the City of Manila.

1. On the main, nothing new there is in the present petition. For, the validity of Ordinance 4986 and the Commissioner's Administrative Order No. 1, series of 1964, here challenged, has separately passed judicial tests in two cases brought before this Court.

In *Lagman vs. City of Manila* (June 30, 1966), 17 SCRA 579, petitioner Lagman was an operator of PU auto trucks with fixed routes and regular terminals for the transportation of passengers and freight on the Bocaue (Bulacan) Parañaque (Rizal) line via Rizal Avenue, Plaza Goiti, Sta. Cruz Bridge, Plaza Lawton, P. Burgos, Taft Avenue, and Taft Avenue Extension, Manila. He sought to prohibit the City of Manila, its officers and agents, from enforcing Ordinance 4986. His ground was that said ordinance was unconstitutional, illegal, ultra vires and null and void. He alleged, amongst others, that (1) "the power conferred upon respondent City of Manila, under said Section 18(hh) of Republic Act No. 409, as amended, does not include the right to enact an ordinance such as the one in question, which has the effect of amending or modifying a certificate of public convenience granted by the Public Service Commission, because any amendment or modification of said certificate is solely vested by law in the latter governmental agency, and only after notice and hearing (Sec. 16[m], Public Service Act); but since this procedure was not adopted or followed by respondents in enacting the disputed ordinance, the same is likewise illegal and null and void"; (2) "the enforcement of said ordinance is arbitrary, oppressive and unreasonable because the city streets from which he had been prevented to operate his buses are the cream of his business"; and (3) "even assuming that Ordinance No. 4986 is valid, it is only the Public Service Commission which can require compliance with its provisions (Sec. 17(j), Public Service Act), but since its implementation is without the sanction or approval of the Commission, its enforcement is also unauthorized and illegal." This Court, in a decision impressive because of its unanimity, upheld the ordinance. Speaking through Mr. Justice J.B.L. Reyes, we ruled:

"First, as correctly maintained by respondents, Republic Act No. 409, as amended, otherwise known as the Revised Charter of the City of Manila, is a special law and of later enactment than Commonwealth Act No. 548 and the Public Service Law (Commonwealth Act No. 146, as amended), so that even if conflict exists between the provisions of the former act and the latter acts, Republic Act No. 409 should prevail over both Commonwealth Acts Nos. 548 and 146. In *Cassion vs. Banco Nacional Filipino*, 89 Phil. 560, 561, this Court said:

'for with or without an express enactment it is a familiar rule of statutory construction that to the extent of any necessary repugnancy between a general and a special law or provision, the latter will control the former without regard to the respective dates of passage.'

It is to be noted that Commonwealth Act No. 548 does not confer an exclusive power or authority upon the Director of Public Works, subject to the approval of the Secretary of Public Works and Communications, to promulgate rules and regulations relating to the use of and traffic on national roads or streets. This being the case, section 18 (hh) of the Manila Charter is deemed enacted as an exception to the provisions of Commonwealth Act No. 548.

x x x

Second, the same situation holds true with respect to the provision of the Public Service Act. Although the Public Service Commission is empowered, under its Section 16 (m), to amend, modify or revoke certificates of public convenience after notice and hearing, yet there is no provision, specific or otherwise, which can be found in this statute (Commonwealth Act No. 146) vesting power in the Public Service Commission to superintend, regulate, or control the streets of respondent City or suspend its power to license or prohibit the

occupancy thereof. On the other hand, this right or authority, as hereinabove concluded, is conferred upon respondent City of Manila. The power vested in the Public Service Commission under Section 16 (m) is, therefore, subordinate to the authority granted to respondent City, under said section 18 (hh). x x x.

x x x

That the powers conferred by law upon the Public Service Commission were not designed to deny or supersede the regulatory power of local governments over motor traffic, in the streets subject to their control, is made evident by section 17 (j) of the Public Service Act (Commonwealth Act No. 146) that provides as follows:

'SEC. 17. Proceedings of Commission with-out previous hearing. - The Commission shall have power, without previous hearing, subject to established limitations and exceptions, and saving provisions to the contrary:

x x x

(j) To require any public service to comply with the laws of the Philippines, and with any provincial resolution or municipal ordinance relating thereto, and to conform to the duties imposed upon it thereby, or by the provisions of its own charter, whether obtained under any general or special law of the Philippines.' (Italics supplied)

The petitioner's contention that, under this section, the respective ordinances of the City can only be enforced by the Commission alone is obviously unsound. Subsection (j) refers not only to ordinances but also to 'the laws of the Philippines', and it is plainly absurd to assume that even laws relating to public services are to remain a dead letter without the placet of the Commission; and the section makes no distinction whatever between enforcement of laws and that of municipal ordinances.

The very fact, furthermore, that the Commission is empowered, but not required, to demand compliance with apposite laws and ordinances proves that the Commission's powers are merely supplementary to those of state organs, such as the police, upon which the enforcement of laws primarily rests.

Third, the implementation of the ordinance in question cannot be validly assailed as arbitrary, oppressive and unreasonable. Aside from the fact that there is no evidence to substantiate this charge, it is not disputed that petitioner has not been totally banned or prohibited from operating all his buses, he having been allowed to operate two (2) 'shuttle' buses within the city limits."^[1]

The second case for certiorari and prohibition, filed by the same petitioner in the first case just mentioned, is entitled "Lagman vs. Medina" (December 24, 1968), 26 SCRA 442. Put at issue there is the validity of the Commissioner's Administrative Order No. 1, series of 1964, also disputed herein. It was there alleged, inter alia, that "the provisions of the bus ban had not been incorporated into his certificate of public convenience"; "to be applicable to a grantee of such certificate subsequently to the issuance of the order establishing the ban, there should be a decision, not merely by the Commissioner, but, also, by the PSC, rendered after due notice and hearing, based upon material changes in the facts and circumstances under which the certificate had been granted"; and "the ban is unfair, unreasonable and oppressive." We dismissed this petition and upheld the validity of the questioned order of the Commissioner. On the aforequoted issues, Chief Justice Roberto Concepcion, speaking for an equally unanimous Court, said -

"Petitioner's claim is devoid of merit, inasmuch as:

1. The terms and conditions of the bus ban established by the Commissioner are substantially identical to those contained in Ordinance No. 4986 of the City of Manila 'rerouting traffic on roads and streets' therein, approved on July 30, 1964. In G.R. No. L-23305, entitled 'Lagman vs. City of Manila', petitioner herein assailed the validity of said ordinance, upon the ground, among others, that it tended to amend or modify certificates of public conveniences issued by the PSC; that the power therein exercised by the City of Manila belongs to the PSC; and that the ordinance is arbitrary, oppressive and unreasonable. In a decision promulgated

on June 30, 1966, this Court rejected this pretense and dismissed Lagman's petition in said case.

2. Petitioner's certificate of public convenience, like all other similar certificates, was issued subject to the condition that operators 'shall observe and comply [with] x x x all the rules and regulations of the Commission relative to PUB service,' and the contested orders - issued pursuant to Sections 13 (a), 16 (g) and 17 (a) of Commonwealth Act 146, as amended - partake of the nature of such rules and regulations.

x x x

4. The purpose of the ban - to minimize the 'traffic problem in the City of Manila' and the 'traffic congestion, delays and even accidents' resulting from the free entry into the streets of said City and the operation 'around said streets, loading and unloading or picking up passengers and cargoes' of PU buses in great 'number and size' - and the letter and spirit of the contested orders are inconsistent with the exclusion of Lagman or of those granted certificates of public convenience subsequently to the issuance of said orders from the operation thereof.

x x x

9. The theory to the effect that, to be valid, the afore-mentioned orders must be issued by PSC, not merely by its Commissioner, and only after due notice and hearing, is predicated upon the premise that the bus ban operates as an amendment of petitioner's certificate of public convenience, which is false, and was not sustained by this Court in its decision in G.R. No. L-23305, which is binding upon Lagman, he being the petitioner in said case."^[2]

The issues raised by Lagman in the two cases just mentioned were likewise relied upon by the petitioners in the case now before us. But for the fact that the present petitioners raised other issues, we could have perhaps written *finis* to the present case. The obvious reason is that we find no cause or reason why we should break away from our ruling in said cases. Petitioners herein, however, draw our attention to points which are not specifically ruled upon in the Lagman cases heretofore mentioned.

2. Petitioners' other gripe against Ordinance 4986 is that it destroys vested rights of petitioning public services to operate inside Manila and to proceed to their respective terminals located in the City. They would want likewise to nullify said ordinance upon the averment that it impairs the vested rights of petitioning bus passengers to be transported directly to downtown Manila.

It has been said that a vested right is one which is "fixed, unalterable, or irrevocable."^[3] Another definition would give vested right the connotation that it is "absolute, complete, and unconditional, to the exercise of which no obstacle exists x x x."^[4] Petitioners' citation from 16 C.J.S., pp. 642-643,^[5] correctly expresses the view that when the "right to enjoyment, present or prospective, has become the property of some particular person or persons as a present interest", that right is a vested right. Along the same lines is our jurisprudential concept. Thus, in *Benguet Consolidated Mining Co. vs. Pineda*^[6] we put forth the thought that a vested right is "some right or interest in the property which has become fixed and established, and is no longer open to doubt or controversy"; it is an "immediate fixed right of present and future enjoyment"; it is to be contradistinguished from a right that is "expectant or contingent." The *Benguet* case also quoted from 16 C.J.S., Sec. 215, pp. 642-643, as follows: "Rights are vested when the right to enjoyment, present or prospective, has become the property of some particular person or persons as a present interest. The right must be absolute, complete, and unconditional, independent of a contingency, and a mere expectancy of future benefit, or a contingent interest in property founded on anticipated continuance of existing laws, does not constitute a vested right, So, inchoate rights which have not been acted on are not vested."^[7]

Of course, whether a right is vested or not, much depends upon the environmental facts.^[8]

Contending that they possess valid and subsisting certificates of public convenience, the petitioning public services aver that they acquired a vested right to operate their public utility vehicles to and from Manila as appearing in their said respective certificates of public convenience.

Petitioners' argument pales on the face of the fact that the very nature of a certificate of public convenience is at cross purposes with the concept of vested rights. To this day, the accepted view, at least insofar as the State is concerned, is that "a certificate of public convenience constitutes neither a franchise nor a contract, confers no property right, and is a mere license or privilege."^[9] The holder of such certificate does not acquire a property right in the route covered thereby. Nor does it confer upon the holder any proprietary right or interest or franchise in the public highways.^[10] Revocation of this certificate deprives him of no vested right.^[11] Little reflection is necessary to show that the certificate of public convenience is granted with so many strings attached. New and additional burdens, alteration of the certificate, and even revocation or annulment thereof is reserved to the State.

We need but add that the Public Service Commission, a government agency vested by law with "jurisdiction, supervision, and control over all public services and their franchises, equipment, and other properties"^[12] is empowered, upon proper notice and hearing, amongst others: (1) "[t]o amend, modify or revoke at any time a certificate issued under the provisions of this Act [Commonwealth Act 146, as amended], whenever the facts and circumstances on the strength of which said certificate was issued have been misrepresented or materially changed";^[13] and (2) "[t]o suspend or revoke any certificate issued under the provisions of this Act whenever the holder thereof has violated or wilfully and contumaciously refused to comply with any order, rule or regulation of the Commission or any provision of this Act: Provided, That the Commission, for good cause, may prior to the hearing suspend for a period not to exceed thirty days any certificate or the exercise of any right or authority issued or granted under this Act by order of the Commission, whenever such step shall in the judgment of the Commission be necessary to avoid serious and irreparable damage or inconvenience to the public or to private interests."^[14] Jurisprudence echoes the rule that the Commission is authorized to make reasonable rules and regulations for the operation of public services and to enforce them.^[15] In reality, all certificates of public convenience issued are subject to the condition that all public services "shall observe and comply [with] x x x all the rules and regulations of the Commission relative to" the service.^[16] To further emphasize the control imposed on public services, before any public service can "adopt, maintain, or apply practices or measures, rules, or regulations to which the public shall be subject in its relation with the public service", the Commission's approval must first be had.^[17]

And more. Public services must also reckon with provincial resolutions and municipal ordinances relating to the operation of public utilities within the province or municipality concerned. The Commission can require compliance with these provincial resolutions or municipal ordinances.^[18]

Illustrative of the lack of "absolute, complete, and unconditional" right on the part of public services to operate because of the delimitations and restrictions which circumscribe the privilege afforded a certificate of public convenience is the following from the early (March 31, 1915) decision of this Court in *Fisher vs. Yangco Steamship Company*, 31 Phil. 1, 18-19:

"Common carriers exercise a sort of public office, and have duties to perform in which the public is interested. Their business is, therefore, affected with a public interest, and is subject of public regulation. (*New Jersey Steam Nav. Co. vs. Merchants Bank*, 6 How., 344, 382; *Munn vs. Illinois*, 94 U.S. 113, 130.) Indeed, this right of regulation is so far beyond question that it is well settled that the power of the state to exercise legislative control over railroad companies and other carriers 'in all respects necessary to protect the public against danger, injustice and oppression' may be exercised through boards of commissioners. (*New York etc. R. Co. vs. Bristol*, 151 U.S., 556, 571; *Connecticut etc. R. Co. vs. Woodruff*, 153 U.S. 689.).

x x x

x x x The right to enter the public employment as a common carrier and to offer one's services to the public for hire does not carry with it the right to conduct that business as one pleases, without regard to the interests of the public and free from such reasonable and just regulations as may be prescribed for the protection of the public from the reckless or careless indifference of the carrier as to the public welfare and for the prevention of unjust and unreasonable discrimination of any kind whatsoever in the performance of the carrier's duties as a servant of the public.

Business of certain kinds, including the business of a common carrier, holds such a peculiar relation to the public interest that there is superinduced upon it the right of public regulation. (Budd vs. New York, 143 U.S., 517, 533.) when private property is 'affected with a public interest it ceases to be *juris privati* only.' Property becomes clothed with a public interest when used in a manner to make it of public consequence and affect the community at large. 'When, therefore, one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created. He may withdraw his grant by discontinuing the use, but so long as he maintains the use he must submit to control.' (Munn vs. Illinois, 94 U.S., 113; Georgia R. & Bkg. Co. vs. Smith, 128 U.S., 174; Budd vs. New York, 143 U.S., 517; Louisville etc. Ry. Co. vs. Kentucky, 161 U.S., 677, 695.)."

The foregoing, without more, rejects the vested rights theory espoused by petitioning bus operators.

Very little need be added to show that neither do bus passengers have a vested right to be transported directly into the City of Manila. It would suffice if a statement be here made that the alleged right of bus passengers, to a great extent, is dependent upon the manner public services are allowed to operate within a given area. Because, regulations imposed upon public services directly affect the bus passengers. It is quite obvious that if buses were allowed to load or unload solely at specific or designated places, a passenger cannot legally demand or insist that the operator load or unload him at a place other than those specified or designated.

It is no argument to support the vested rights theory that petitioning passengers have enjoyed the privilege of having been continuously transported even before the outbreak of the war directly without transfer from the provinces to places inside Manila up to the respective bus terminals in said City. Times have changed. Vehicles have increased in number. Traffic congestion has moved from bad to worse, from tolerable to critical. The number of people who use the thoroughfares has multiplied.

3. It is because of all of these that it has become necessary for the police power of the State to step in, not for the benefit of the few, but for the benefit of the many. Reasonable restrictions have to be provided for the use of the thoroughfares.[19] The operation of public services may be subjected to restraints and burdens, in order to secure the general comfort.[20] No franchise or right can be availed of to defeat the proper exercise of police power[21] the authority "to enact rules and regulations for the promotion of the general welfare." [22] So it is, that by the exercise of the police power, which is a continuing one, "a business lawful today may in the future, because of the changed situation, the growth of population or other causes, become a menace to the public health and welfare, and be required to yield to the public good." [23] Public welfare, we have said, lies at the bottom of any regulatory measure designed "to relieve congestion of traffic, which is, to say the least, a menace to public safety." [24] As a corollary, measures calculated to promote the safety and convenience of the people using the thoroughfares by the regulation of vehicular traffic, present a proper subject for the exercise of police power.[25]

Both Ordinance 4986 and the Commissioner's administrative orders fit into the concept of promotion of the general welfare, Expressive of the purpose of Ordinance 4986 is Section 1 thereof, thus - "As a positive measure

to relieve the critical traffic congestion in the City of Manila, which has grown to alarming and emergency proportions, and in the best interest of public welfare and convenience, the following traffic rules and regulations are hereby promulgated." Along the same lines, the bus ban instituted by the Commissioner has for its object "to minimize the 'traffic problem in the City of Manila' and the 'traffic congestion, delays and even accidents' resulting from the free entry into the streets of said City and the operation 'around said streets, loading and unloading or picking up passengers and cargoes' of PU buses in great 'number and size.'"[26]

Police power in both was properly exercised.

4. We find no difficulty in saying that, contrary to the assertion made by petitioners, Ordinance 4986 is not a class legislation.

It is true that inter-urban buses are allowed to enter the City of Manila, while provincial buses are not given the same privilege, although they are allowed shuttle service into the City of Manila. There is no point, however, in placing pro-vincial buses on the same level as the inter-urban buses plying to and from Manila and its suburban towns and cities (Makati, Pasay, Mandaluyong, Caloocan, San Juan, Quezon City and Navotas). Inter-urban buses are used for transporting passengers only. Provincial buses are used for passengers and freight. Pro-vincial buses, because of the freight or baggage which the passengers usually bring along with them, take longer time to load or unload than inter-urban buses. Provincial buses generally travel along national highways and provincial roads, cover long distances, have fixed trip schedules. Provincial buses are greater in size and weight than inter-urban buses. The routes of inter-urban buses are short, covering contiguous municipalities and cities only. Inter-urban buses mainly use city and municipal streets.

These distinctions generally hold true between provincial passenger jeepneys and inter-urban passenger jeepneys.

No unjustified discrimination there is under the law.

The obvious inequality in treatment is but the result flowing from the classification made by the ordinance and does not trench upon the equal protection clause.[27] The least that can be said is that persons engaged in the same business "are subjected to different restrictions or are held entitled to different privileges under the same conditions." [28]

Neither is there merit to the charge that private vehicles are being unjustifiably favored over public vehicles. Private vehicles are not geared for profit, usually have but one destination. Public vehicles are operated primarily for profit and for this reason are continually operated to make the most of time. Public and private vehicles belong to different classes. Differences in class beget differences in privileges. And petitioners have no cause to complain.

The principles just enunciated have long been recognized. In *Ichong vs. Hernandez*, [29] our ruling is that the equal protection of the law clause "does not demand absolute equality amongst residents; it merely requires that all persons shall be treated alike, under like circumstances and conditions both as to privileges conferred and liabilities enforced"; and, that the equal protection clause "is not infringed by legislation which applies only to those persons falling within a specified class, if it applies alike to all persons within such class, and reasonable grounds exist for making a distinction between those who fall within such class and those who do not." [30]

For the reasons given, the petition herein is denied. Costs against petitioners.

SO ORDERED.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, and Barredo, JJ., concur.

[1] At pp. 585-587.

[2] At pp. 447-449.

[3] *Miller vs. Johnstown Traction Co.*, 74 A. 2d. 508, 511.

[4] *Hutton vs. Autoridad Sobre Hogares de la Capital*, 78 F. Supp. 988, 994; and *State vs. Hackmann*, 199 S.W. 990, 991.

[5] Petitioners erroneously cited the book and page reference as 16 C.J.C. 1173.

[6] 98 Phil. 711, 722.

[7] Cited in heirs of *Gabriel Zari vs. Santos* (1969), 27 SCRA 651, 662-663.

[8] See: Report of the Code Commission, pp. 165-166.

[9] *Pangasinan Transportation Co., Inc. vs. Public Service Commission* (1940), 70 Phil. 221, 234, citing cases; *A.L. Ammen Transportation Company, Inc. vs. La Comision de Servicios Publicos* (1941), 72 Phil. 459, 462-463; *Rizal Light & Ice Co., Inc. vs. Municipality of Morong, Rizal* (1968), 25 SCRA 285, 301-302, citing *Collector of Internal Reve-nue vs. Estate of F. Buan, et al.*, L-11438 and *Santiago Sambrano, et al. vs. PSC, et al.*, L-11439 & L-11542-46, July 31, 1958. See also: *Manila Yellow Taxicab Co. vs. Austin Taxicab Co.* (1934), 59 Phil. 771, 772 and *Manila Yellow Taxicab Co. vs. Sabellano* (1934), 59 Phil. 773, 774, where we held that a permit to operate a fleet of taxicabs or the granting of such permit is not one of right, but it is a privi-lege granted by the State.

Of course, we also have the following rulings: (a) In *Raymundo vs. Luneta Motor Co.* (1933), 58 Phil. 889, 892, where the nature of a certificate of public convenience was passed upon in order to deter-mine whether or not it is liable to attachment and seizure by legal process, we held: "A certificate of public convenience granted to the owner or operator of public service motor vehicles, it has been held, grants a right in the nature of limited franchise. (*Public Utilities Commission vs. Garviloch* [1919], 54 Utah, 406.)"; (b) It has also been ruled that a certificate of public convenience may be acquired by purchase, *Luneta Motor Company vs. A.D. Santos, Inc.* (1962), 5 SCRA 809, 812-813.

[10] *Re East Penn Transportation Company*, 41 PUR (NS), 316, 318.

[11] *Roberto vs. Commissioners of Department of Public Utilities*, 160 N.E. 321, 322, citing *Burgess vs. Mayor and Aldermen of Brockton*, 235 Mass. 95, 100, 126 N.E. 456.

[12] Sec. 13(a), Commonwealth Act 146, as amended.

[13] Sec. 16(m), Commonwealth Act 146, as amended.

[14] Sec. 16(n), Commonwealth Act 146, as amended.

[15] *Batangas Transportation Co. vs. Orlanes*, 52 Phil. 455, 460, See also: *Mejica vs. Public Utility Commission*, 49 Phil. 774, 778; *Pasay Transportation Co., Inc. vs. Public Service Commission*, 59 Phil. 278.

[16] *Lagman vs. Medina*, supra, at p. 447.

[17] Sec. 20(k), Commonwealth Act 146, as amended.

[18] Sec. 17(j), Commonwealth Act 146, as amended.

[19] Pasay Transportation Co., Inc. vs. Public Service Commission (1933), 59 Phil. 278, 280-281.

[20] Calalang vs. Williams, 70 Phil. 726, 733.

[21] Surigao Electric Co., Inc. vs. Municipality of Surigao (1968), 24 SCR 898, 904.

"The fundamental rule that a state or a municipal corporation cannot by act, franchise or any form of contract divest itself of, or diminish in any respect, its police power is applicable with respect to any grant, franchise or contract between a municipal corporation and a railroad, street railway or bus company. Otherwise stated, the franchise, charter or other contractual powers of a railroad, street railway or bus company authorizing it to make certain uses of a city's streets does not exempt it from reasonable police regulation. This is true, irrespective of any terms or conditions stated in the franchise, charter or contract." 7 McQuillin, Municipal Corporations, 1949 ed. (3rd edition), pp. 725-726.

[22] City of Naga vs. Court of Appeals (1968), 24 SCRA 594, 598.

[23] Calalang vs. Williams, *supra*, at p. 734.

[24] Calalang vs. Williams, *supra*, at p. 733.

[25] Fritz vs. Presbrey, 116 A. 419, 421. See also: Lincoln Park Coach Co. vs. City of Detroit, 294 N.W. 149, 150, citing cases.

[26] Lagman vs. Medina, *supra*, at p. 447, citing PSC's order of February 13, 1963.

[27] See: Felwa vs. Salas (1966), 18 SCRA 606.

[28] Suddreth vs. City of Charlotte, 27 S.E. 2d. 650, 653.

[29] 101 Phil. 1155, 1164, citing 2 Cooley, Constitutional Limitations, 824-825.

[30] See also: Ormoc Sugar Company, Inc. vs. Treasurer of Ormoc City (1968), 22 SCRA 603, 606, citing Felwa vs. Salas, *supra*; and People vs. Carlos, 78 Phil. 535, 542, citing 16 C.J.S. 997.

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