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AN ANALYSIS OF THE VALIDITY OF SECTION 1 OF ACT No. 2886

By GAVINO A. ACENAS *

INTRODUCTION

People and Government are two essential constituents of a State that have been often confused. There seems to be no good reason for this confusion because one greatly differs from the other. "The Government is the machinery, and the People the citizenry of a State." [1] In enacting Act Numbered 2886 amending the General Order Numbered Fifty-Eight, otherwise known as the Code of Criminal Procedure of the Philippine Islands, the term "People" has been used where the same is appropriate. In holding the validity of section one of the same law amending section two of General Order Numbered Fifty-Eight [2] the Supreme Court of the Philippine Islands failed to see the distinction between People and Government.[3] Because of this confusion, the validity of the provision of the law in question has not been judiciously determined and an analysis of its validity forms the main subject of this work.

THE LAWS INVOLVED

In order to have in mind the laws involved in this discussion, the author thought it better to state the amending and the amended law at the outset.

Section 1 of Act Numbered 2886:

"SECTION 1. Section two of General Order Numbered Fifty-Eight, series of nineteen hundred, is hereby amended to read as follows:

"'SECTION 2. All prosecutions for public offenses shall be in the name of the People of the Philippine Islands against the persons charged with the offense.'"

Section 2 of General Order No. 58 before the amendment:

"SECTION 2. All prosecutions for public offenses shall be in the name of the United States against persons charged with the offense."

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*LL.B., University of the Philippines.

[1] Sinco, Phil. Govt. & Pol. Law, (2nd ed.), p. 6.

[2] This Order shall hereafter be referred to as the General Order.

[3] See People vs. Santiago, 43 Phil. 127.

The latter provision in connection with section one of the General Order had the effect and force of law in criminal matters in the Philippine Islands from and after May 15, 1900.

THE PUNISHMENT OF CRIME IS AN ATTRIBUTE OF SOVEREIGNTY

In order to understand properly the reasons on which we shall base our stand on the question of the validity of the amendatory law above quoted, we invite the attention of our readers to certain fundamental facts in connection with the prosecution and punishment of crimes.[4] A knowledge of them unfolds the basis of our conclusion.

The concept of crime has, as a necessary element, the legal concept of a State and Sovereignty. Crime has been defined in many ways, but it is more accurately characterized as a "wrong directly or indirectly affecting the public to the commission of which the STATE has annexed certain punishments and penalties, and which it prosecutes in its own name in what is called a criminal proceeding." [5] It is an offense "against the sovereignty and can only be taken notice of and punished by the SOVEREIGNTY." [6] It is an "act or omission which is prohibited by law as injurious to the public, and punished by the STATE in a proceeding in its own name or in the name of the people or sovereign." [7]

We can see from the above definitions that certain acts or omissions are considered crimes because the State has annexed certain penalties and punishments to the commission of such acts or to such omissions. Any wrongful act cannot be a crime without it being so considered by law, which law is, in the last analysis, the expression of the sovereign will of the State.

The different theories of punishment of crimes recognize the principle that as "every crime threatens the existence of the State, by the State every crime may be punished." [8] For example the absolute theory of punishment "rests on the assumption that crime as crime must be punished; punitur quia peccatum est. The State, as representing society at large, springs from a moral necessity. It is not a matter of choice

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[4] Whenever crime is mentioned in this work, reference is always had to public crime as distinguished from private offenses.

[5] State vs. Thibodeaux, 48 La. Ann. 602.

[6] People vs. William, 24 Mich. 163.

[7] For statutory definitions see 16 C. J. 49, note 5 (a).

[8] Wharton, Criminal Law, vol. 1 p. 4 (11th ed.).

whether we will live under a government. Some government, some form of civil organization, we must have. And the State is not to be guided simply by expediency, or by merely extended purpose of society. It has an existence of its own to maintain; a conscience of its own to assert; moral principles to vindicate. Penal justice, therefore is a distinctive prerogative of the State, to be exercised in the service and in the satisfaction of the State." [9] "If crime is made punishable by law, the public authority by which laws are made is the one entitled to punish crime. Society, then, in a large sense, is primarily invested with the right to punish crime because it is the original source of authority, and derivatively, the State, as the representative of society, by means of its agent, the government." [1]

A careful analysis of the above statements reveals the reasons why crime is punished by the State and by what authority crime is punished. A crime is an offense not so much against the person offended as against the State which has to punish crime because it has to maintain its existence, assert its conscience, and vindicate its moral principles. The criminal law has from time immemorial been found an absolute necessity for the preservation of public order and for human society in general. The irresistable conclusion therefore is that the prosecution and punishment of crime is an exercise of sovereign power and consequently the power to punish crime is an attribute of sovereignty. This being so, crime could only be punished, in this jurisdiction, by authority and in the name of the sovereign power. That sovereignty does not reside in the people of the Philippine Islands admits of no contradiction. That sovereignty resides in the United States and is exercised through the agency of the Government of the Philippine Islands which is, "strictly speaking the government of the United States in the Philippine Islands" also admits of no doubt. Therefore, it was fitting and proper for the General Order to require that the prosecution for all public offenses shall be in the name of the United States. We must conclude that when the Philippine Legislature changed the designation of the sovereign in whose name crimes should be punished, and substituted therefor another entity wherein sovereignty does not reside, it did so without authority and in violation of the principle that only the

[9] Wharton, Criminal Law vol. 1, p. 11.
[1] Albert, Revised Penal Code Ann. 159-160.

sovereign power can authorize the prosecution and punishment of crime.

SECTION 2 OF G. O. 58 IS ORGANIC

Our next proposition is that the provision that "all prosecution for public offenses shall be in the name of the United States against the person charged with the offense" is, in nature and effect, an organic provision. To understand this point better, and for that matter, any rule of law, it is necessary to go to the bottom of the matter and look to the reasons for the law because he who knows not the reasons for the law knows not the law itself. Upon investigation, it is seen that the United States, in the instance of the promulgation of the General Order, successfully terminated a war against Spain. By the Treaty of Paris of December 10, 1899, the Philippine Islands were taken over by the United States. This Treaty constituted an absolute grant to the United States from Spain of all the territory known and bounded in the treaty as the Philippine Islands and all dominion over it. Spain, the dominant and sovereign power then, "granted the Islands to the United States and the grantee in accepting them took nothing less than the entire grant." [2] So when the new sovereign power was implanted in the Philippine Islands, it was necessary for the United States, as the new sovereign, to prepare law rules and regulations for the government of the United States territory of the Philippine Islands, transferring the government of the latter from that of Spain to that of the United States. The General Order, one of these rules, provided for the new sovereign designation in place of the old in matters of criminal proceedings. This new sovereign designation was no transfer to the empty words "United States". It was a transfer from one sovereign authority to another. Those words "United States" commanded by the General Order to be used to designate the sovereign authority in whose name all prosecutions for public offenses must be prosecuted and punished imply more than the mere words utilized. It is a concrete command that the substantive right and jurisdiction to act for all purposes in all criminal prosecutions in this jurisdiction come from the authority and power indicated and lying behind those words "United States". It is the embodiment of the principle that to punish crime is an attribute of sovereignty.[3] Therefore, Section 2 of the General

[2] Fourteen Diamond Rings Case, 183 U. S. 138.

[3] See ante p. 2 et seq.

Order is, in its nature, an organic law provision for as long as the United States is the sovereign authority in this jurisdiction and crimes can only be punished by the sovereign, there can be no other legal entity in whose name crimes could be punished and still conform with the constitutional principle that in the Philippine Islands sovereignty does not reside in the People but in the United States. The General Order was promulgated to provide for a change from the then existing procedure in the name of the Kingdom of Spain to that of the Order in the name of the new sovereign, the United States, for the prosecution of all criminal offenses arising in this jurisdiction. Hence, our conclusion that this element of the procedural law is fundamental and organic in view of the constitutional relation existing between the United States and the Philippine Islands, and therefore the Legislature was without authority in law to amend the same by dropping the name "United States" as the sovereign in whose name crime should be punished.

By going one step farther, this conclusion will become more logical and sound. The General Order established a "new system of procedural laws completely distinct from the former (adjective laws in criminal matters) since it is based upon the underlying principles of criminal procedure followed and adopted in the United States." [4] What these "underlying principles" are will be understood by knowing certain few ideas connected with criminal procedure.

The action against persons who commit public offense is known as "criminal action" as distinguished from civil action. The former is "one instituted and prosecuted by the State for the punishment of crime; one prosecuted by the State as a party against a person charged with a public offense for the punishment thereof." [5] It is an action "prosecuted in a court of justice, in the name of the government, against one or more individuals accused of crime." [6] Criminal action is "prosecuted by the State against a person charged with a public offense committed in violation of a public law". [7]

A careful study of the above definitions reveals two inescapable principles. First, that criminal action is prosecuted by the State in its sovereign capacity; and second, that in a crim-

[4] Guevara, Code of Criminal Proc. Ann. (1922) Foreword.
[5] 16 C. J. 49.
[6] Bouvier's Law Dic. Black, Law Dic.
[7] State vs. Hamley, 119 NW 115. See also 16 Cj 49 n 5a.

inal action, the party plaintiff is either the sovereign State or the sovereign people. These two rules permeates criminal procedure as understood, followed, and adopted in the United States. The General Order, based as it was upon the same principles underlying American law in criminal matters, contemplated that the prosecution of crime should be in the name of the sovereign power and the use of the words "United States" as the sovereign designation was not accidental. Therefore, we inevitably arrive again at the same conclusion—that Section 2 of General Order 58 is organic in nature, there being no other sovereign under our constitutional system, who could prosecute and punish crime other than the United States. In other words, since crime could only be prosecuted by the State in its sovereign capacity, under our system of laws, the United States alone can authorize such prosecution and punishment and since only the State or the sovereign people can become party plaintiff in a criminal action, the United States alone could properly become party plaintiff. In another place in this work, we will show why the People of the Philippine Islands can not become party plaintiff in such action.[8]

SEC. 2 G. O. 58 CONTINUED IN FORCE

This organic provision was adopted by the Civil Government which succeeded the Military Government in the Philippine Islands. It was continued in force by the Philippine Bill of 1902. No where in the Jones Law is to be found that Congress ever contemplated or has provided for the changing of this sovereign designation for any purpose or under any circumstance by the Philippine Legislature. On the other hand, the Jones Law significantly sets forth with care its purpose in the last paragraph of its preamble as follows:

"* * * it is desirable to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them without, in the meantime, impairing the exercise of the rights of sovereignty by the people of the United States."[9]

This being the purpose of the Jones Law, the logic of the situation is that the people of the Philippine Islands are directed by Congress to take possession of the local government in the name of the people of the United States as they found it established and under the United States and restricted by the existing organic law provisions and other promulgated organic

[8] See infra p. 19 et seq.

[9] See also Sinco, Phil. Govt. & Pol. Law, p. 150.

laws. The Filipinos are permitted to have only as large a control of their domestic affairs as can be given them without impairing the exercise of the rights of sovereignty by people of the United States. The punishment of crimes in the name of the People of the Philippine Islands impairs the right of sovereignty of the United States to the extent of withdrawing from the latter the attribute of sovereignty manifested by the prosecution and punishment of crimes and conferring upon the former the same attribute which it is not ready and capable to receive. It is conceded that the Philippine Legislature is possessed with sufficient power to define and punish crimes, but it is denied that such power embraces the authority to withdraw from the United States the authority to prosecute and punish crimes and confer upon the People of the Philippine Islands the same. The manifest will of the United States is to retain an active and effecient authority over the Philippines and the Filipinos. The Jones Law defines and limits the status of the Filipinos as in tutelage to the United States. The people of the Philippine Islands may act only limitedly in their domestic affairs and always by authority of the United States as acting in any other name and by any other authority would be acting without restraint and independent sovereign act and a striking out of the supreme authority of the United States, which authority to so act has never been conceded the Filipinos.

STATE AND P. I. GOVERNMENTS COMPARED

But it is said that "by reason of the principle of territoriality as applied in the suppression of crimes, such power is delegated to subordinate government subdivisions such as territories. These territorial governments are local agencies of the Federal Government, wherein sovereignty resides; and when the territorial government of the Philippines prosecutes and punished crimes it does so by virtue of the authority delegated to it by the supreme power of the nation." [1] This statement is correct. But it is not an argument against our stand on the main issue. The Philippine Legislature should always act in the name of the delegating power and to validly prosecute a crime under its delegated authority, the same should be done in the name of the United States. By authorizing the prosecution and punishment of crimes in the name of the People of the Philippine Islands, the Legislature acted without authority.

[1] People vs. Santiago, 43 Phil. 127-128.

It is further urged that, for practical reasons, the prosecution and punishment of crime is left to the different States of the United States under the police power and the States of the Union prosecute and punish crimes in their own names or in the name of the people. With this as a premise, the conclusion is at once drawn that for the same reasons the Philippine Legislature can validly authorize and provide that crimes may be prosecuted and punished in the name of the People of the Philippine Islands.[2] At first blush, this reasoning sounds logical. But if we go deeper into the matter and consider the nature of the governments of the different States of the United States and the nature of the government of the Philippine Islands, the fallacy of the reasoning is at once ridiculously apparent.

It is perfectly legal for the different States of the United States to prosecute and punish crimes in their own names or in the name of the people. The reason for this is not practical convenience because there is a legal basis for the power. The States of the Union are sovereign States save in so far as they have by solemn compact yeilded their sovereignty to the Federal Government. But they have surrendered their sovereignty only with respect to their public relation with other nations and with respect to the few other matters named in the Federal Constitution. In other respects they are sovereign.[3] Again under the Constitution of the United States, all powers not delegated to the United States nor prohibited to the States are reserved to the States respectively or to the people. The people of each State compose a State having its own government and endowed with all the functions essential to separate and independent existence. There can be no loss of separate and independent autonomy to the State through their union under the Constitution.[4] The State government are supreme within their proper sphere.[5] One would search in vain throughout the Federal Constitution to find a provision which delegates, expressly or impliedly, the authority to prosecute and punish crimes exclusively to the Federal Government, much less a provision which denies to the States of the Union the same authority. Added to this the observation above that the different States are sovereign in their respective spheres, it is perfectly legal for the different States,

[2] People vs. Santiago, 43 Phil. 124.

[3] Hood vs. State, 56 Ind. 263; 26 Am. Rep. 21, 22; Peterson vs. Chemical Bank, 32 N. Y. 21, 40-41.

[4] Texas vs. United States, Evans Cases on Const. Law pp. 12-13.

[5] U. S. vs. Tarble, 20 Law ed. 160.

sovereign as they are in this respect, to exercise the sovereign power of punishing crimes in the name of the State or of the people of the State. This power is exercised by the different States of the United States not because it is expedient but because it is perfectly legal and conformably to the constitutional principles which govern the relation of a State Government to the Federal Government. The constitutional principles which govern the relation of a State Government to the Federal Government are such that the sovereignty of the State is not lost in so far as the prosecution and punishment of crime is concerned and therefore the authority to prosecute and punish crime is exercised by a State of the Union as an attribute of sovereignty and not as a practical convenience.

The case is different with respect to the Philippine Islands, because the principles governing the relation of the Philippines to the United States are not the same. The Philippine Islands is not a State and its relation to the United States is controlled by constitutional principles different from that which apply to the States of the Union.[6] The Government of the Philippine Islands stands outside of the constitutional relation which unites the States and Territories into the United States.[7] A lucid statement of the nature of the relation of territories to the Federal Government is made by Chief Justice White in the following manner:

"The Territories are but political subdivisions of the outlaying dominion of the United States. They bear much the same relation to the General Government that counties do to the States and Congress may legislate for them as States do for their respective municipal organizations."[8]

This being the case, the Philippine Islands is but a political subdivision of the United States as a State and strictly speaking the Philippine Islands is part of the United States as a State and does not enjoy the same status as is enjoyed by the different States of the Union in their relation to the Federal Government. It would inevitably follow that whatever is enjoyed by the States of the Union is not necessarily enjoyed by the Philippine Islands.

The fact, therefore, that the different States of the United States are, under the Constitution, authorized to prosecute and punish crime in their own names or in the name of the people

[6] U. S. vs. Bull, 15 Phil. 20.

[7] Ibid.

[8] First Nat. Bank vs. Yankton, 101 U. S. 129; 25 L. ed. 1047.

of the State cannot be used as an argument in support of the contention that the Philippine Government can also prosecute and punish crimes in the name of the People of the Philippine Islands.

There is another fact which has a very important bearing on the subject under discussion, which may or may not have been noticed by the framers of the Jones Law. We are referring to the Act of Congress of July 1, 1902 which expressly prohibited the application of section 1891 of the Revised Statute of 1878 to this jurisdiction. This section provides:

"The constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within all organized territories and in every territory hereafter organized as elsewhere within the United States."

If under the Constitution and laws of the United States, the different States of the Union are with ample authority and power to prosecute and punish crime in their own names, this legal provision, granting that it is locally applicable in the Philippine Islands, is made inapplicable by the above provision of law. This being so, we arrive at the same conclusion as we have adverted to—that whatever power the different States may legally exercise in connection with the prosecution and punishment of crimes cannot necessarily be exercised legally by the Philippine Islands as a mere political subdivision of the United States.

U. S. CANNOT BE SUBSTITUTED BY P. P. I.

It has already been said that the fixed designation for the sovereign State exercising supreme and organic authority in this jurisdiction is organically fundamental and basic and cannot be substituted by another sovereign designation. The reason is that this matter is a fundamental one born in the exercise of the rights of sovereignty by the United States over the Philippine Islands. Also it has already been said that this organic provision was continued in force. Both the Philippine Bill of 1902 and the Jones Law did not disturb this designation for the name of the sovereign State in its relation to the Philippine Islands as the sovereign authority. The evident reason for this is that the existing law made due and ample provision on that point. This is all apparent when a proper proportion and balance are taken in the matter and it is considered from the point of view of the fundamental fitness of the affairs of a State. Furthermore, Section 2 of the General Order is organic because

it changed the dominant State designation from that of the Kingdom of Spain to that of the United States and fully covered the question of the designation in the changed sovereign authority and the conservation of that sovereign authority and entity in the prosecution of all criminal cases against all persons believed to have violated the criminal laws of this jurisdiction. There was nothing left to be desired or wanted in that respect in this provision of the said General Order.

Being an organic provision, the Philippine Legislature was without authority to amend the same, much less to drop the sovereign designation "United States" and substitute therefor "People of the Philippine Islands" and make the latter appears as the sovereign authority in whose name crime is prosecuted and punished. In this connection, it is not denied that, under section seven of the Jones Law which reads:

> "That the legislative authority herein provided shall have power, when not inconsistent with this act, by due enactment to amend, alter, modify, or repeal any law, civil or criminal, continued in force by this act as it may from time to time see fit."

the Philippine Legislature could be conceded the power and authority to amend certain provisions of the General Order. But the fact that this General Order was promulgated at the time when the United States was busy laying the groundwork upon which to erect her sovereign structure over a newly acquired territory should not be lost sight of. When this Order was promulgated, it was necessary that the United States should make effective and active her powers and authority as the new sovereign in the Philippine Islands and at the same time introduce her basic ideas of government. It was thus unavoidable that in providing for rules that shall govern in her newly acquired territory, there be included certain fundamental and organic provisions calculted to effect the change from the then existing rules in criminal matters to a new one in keeping with the system of the new sovereign and at the same time to introduce and protect her basic principles of individual rights and liberty which permeate the entire governmental system of the United States. This, undoubtedly, accounts for the reasons why the General Order contains certain provisions which are in their nature and effect constitutional and organic. For example, section fifteen of the said Order provides certain rights of an accused among them being the right to appear and defend in person and by counsel at every stage of the proceeding; to be informed of the nature

and cause of the accusation; and to have a speedy and public trial. These provisions and other similar provisions are organic and fundamental. If before these provisions were embodied in the Organic Law of the Philippines, a law was passed amending this section of the General Order and deny to an accused anyone of these rights, the same would certainly have been declared void if properly raised before a competent court in a proper proceeding. So also if these provisions were not now embodied in the Organic Law and the Philippine Legislature pass a law amending this particular provision of the General Order and deprive an accused person of anyone of these rights, the court will not hesitate to declare the law void. The reason is not far to seek. Such law will be repugnant to the basic principles laying at the bottom of the United States Government. In view of the constitutional relationship existing between the Philippines and the United States, we maintain that the requirement that prosecution of crimes shall be in the name of the United States is of this nature and effect.

The fact that there has been numerous amendments to the General Order is not an argument against our stand on the proposition. Rather this fact helps to establish our case. We have examined all these amendments one by one and the result of our labor reinforces our arguments in support of our stand on the question. Except the amendment we are now considering, not a single one of these amendments has touched any fundamental matter provided for by the General Order. The Philippine Legislature may amend any law continued in force in this jurisdiction by the Jones law limited only by its inability to amend organic legal provisions without authority from the sovereign power. Under no consideration nor from any point of view could the designation of the sovereign authority to commence criminal proceedings and take jurisdiction over criminal acts be changed by the Philippine Legislature. There is a vast difference between changing the manner and methods of proceedings and changing the official designation of the sovereign authority to take jurisdiction and to prosecute. The former, under our system of government is not organic; the latter is. The former can be changed by the legislature; the latter cannot be changed. That is why we say that the Philippine Legislature was without authority to validly change the official designation of the authority to prosecute and punish crime from that of the United States to the People of the Philippine Islands.

GOVERNMENT OF THE P. I. AND PEOPLE OF THE P. I. NOT THE SAME

The greatest fallacy in the reasoning of the case deciding infavor of the validity of the provision of law we are considering is found in the error of mistaking the Government of the Philippine Islands for that of the People of the Philippine Islands. Thus it has been argued that the present Government of the Philippine Islands created by Congress of the United States is autonomous and that this "autonomy reaches all judicial actions, the case at bar being one of them." As an example of such autonomy this "Government the same as that of Hawaii and Porto Rico, cannot be sued without its consent." Then the decision continues thus: "The doctrine laid down in these cases [1] acknowledges the prerogative of personality in the Government of the Philippines, which, if it is sufficient to shield it from any responsibility in its own name unless it consents thereto, it should be also, as sufficiently authoritative in law, to give that government the right to prosecute in court in its own name whomsoever violates within its territory the penal laws in force therein." [2]

This would have been a flawless statement of the law if the provision we are considering did not provide that "all prosecution for public offenses shall be in the name of the *People* of the Philippine Islands". A very lucid criticism of this statement is quoted in full below as there can be offered no clearer statement of the error committed in the reasoning of the statement quoted above.

"A close analysis of this passage reveals a confusion of the terms *Government* and *People*. That right which gives immunity to the Government of the Philippine Islands from legal suits, the court concludes, 'should be also, as sufficiently authoritative in law, to give that government the right to prosecute in court in its own name whomsoever violates, within its territory, the penal laws in force therein'. It is obvious from this language that the Government of the Philippines is here mistaken for the People of the Philippine Islands. For the question before the court was not the right of the Government of the Philippine Islands to prosecute criminals in its name but rather the right of the People of the Philippine Islands to be named as party plaintiff in criminal complaints.

[1] The cases referred are cited in the decision.

[2] People vs. Santiago, 43 Phil. 127.

"This failure to observe this distinction is significant. The United States, as a State, is represented in the Philippines not by the People of the Philippine Islands but by the Government of the Philippine Islands established by authority of the United States. Technically, the Philippine Government is the Government of the United States in the Philippine Islands. This is the government to which has been delegated the right to exercise the sovereign power of the State to punish criminals. In the sense that it does not derive its powers from the people of the Philippine Islands but from the United States, it does not represent said people. The people of the Philippine Islands are simply vested with a limited right to participate in the choice of the officers in charge of the government. It would then follow that whatever rights and privileges may be possessed by the Government of the Philippine Islands need not necessarily be attributable to the People of the Philippine Islands." [3] The same author tersely distinguishes Government from People by saying "the government is the machinery, and the people the citizenry of a State." [4]

No valid conclusion can be drawn from a wrong premise. Therefore, the conclusion arrived at by the court in deciding the validity of the provision we are considering could not be valid, the premise being wrong.

SUMMARY

From what we have said, we have shown, we hope, the following:

1. The prosecution and punishment of crime is an exercise of sovereign power and the power to prosecute and punish crime is an attribute of sovereignty. Consequently, the Philippine Legislature cannot validly prescribe that crime should be prosecuted and punished in the name of the People of the Philippine Islands.

2. The provision of General Order Numbered Fifty-Eight requiring that the prosecution of crimes shall be in the name of the United States is, in nature and effect, organic and fundamental. The words "United States" were not employed accidentally. The term was used with a full knowledge of its significance and propriety. Therefore the Philippine Legis-

[3] Sinco, Phil. Govt. & Pol. Law p. 7-8.
[4] Ibid., p. 6.

lature cannot validly drop this sovereign designation and substitute therefore another.

3. This legal provision was continued in force by Congress in this jurisdiction, there being nothing in the Philippine Bill of 1902 nor in the Jones Law which gives authority, expressly or impliedly, to the Philippine Legislature to amend this particular provision and for that matter any other organic legal provision.

4. The different States of the United States possess legal authority to prosecute and punish crime in their own names not by reason of practical convenience but by reason of the sovereign character of each State in view of the constitutional principles which govern the relation of the different States to the Federal Government. This authority is not possessed by the Philippine Islands because the constitutional principles which govern the relation of the latter to the Federal Government are not similar to those which govern the relation of a State of the Union to the Federal Government. Because of this difference, what may lawfully be done by a State of the United States may not necessarily be legal when done by the Philippine Islands as a political subdivision of the United States as a State.

5. The substitution of the People of the Philippine Islands for that of the United States as the sovereign designation in the prosecution of crimes is not legal.

6. The Government of the Philippine Islands is distinct and separate from the People of the Philippine Islands. One cannot be used to designate the other; neither is it true that whatever right which belongs to the former also belongs to the latter. If the Government of the Philippine Islands can legally become a party plaintiff in a criminal action, it does not necessarily follow that the People of the Philippine Islands also may become party plaintiff in such action.

Our conclusion is that the law amending this particular provision of the General Order is without any constitutional basis and consequently invalid.