

## POWER OF THE PRESIDENT OF THE COMMONWEALTH OVER LOCAL GOVERNMENT

*By* CECILIA MUÑOZ

Much has been said about the so-called "dictatorship" of President Manuel L. Quezon. The successive investigations, reprimands and suspensions of insular and provincial officials these last three or four months have given rise to an under-current feeling among a considerable number of people that the President is going beyond the limits of his power as granted by the Constitution and that he is high-handedly meddling with local affairs. The question came to the front, therefore, as to whether under the Constitution, the President of the Philippines may or may not take an active and direct part in the affairs of the local government in the matters of appointment, removal, suspension and investigations of provincial and municipal officials of the government. The main purpose of this article is to discuss and elucidate this vital and important question for the benefit of all concerned.

The provisions of the Philippine Constitution on the powers of the President of the Philippines relative to local government are found in the following articles:

"Article VII, Sec. 1:—The Executive power shall be vested in a President of the Philippines.

Sec. 11 (1):—The President shall have control of all the executive departments, bureaus, or offices, exercise general supervision over all local governments as may be provided by law, and take care that the laws be faithfully executed."

In comparison with the foregoing provisions of our Constitution are those of the Jones Law on the same subject:

Section 21:—That the supreme executive power shall be vested in an executive officer, whose official title shall be "The Governor-General of the Philippine Islands" \* \* \* He shall have general supervision and control of all the departments and bureaus of the government in the Philippine Islands as far as is not inconsistent with the provisions of this Act \* \* \*"

It can be seen that there exists two main differences in the text of both the Constitution and the Jones Law on this subject. In the former, the word "supreme" which qualifies the phrase "executive power" in the Jones Law is suppressed; and in Sec. 11 (1) of the same Article of the Constitution the word "control" with respect to local government is omitted. The main discussion, therefore, will center on the effects, if any of the suppression of these terms, "supreme" and "control" on the powers of

the Chief Executive; whether such changes in the language and text of the Constitution have the effect of increasing or decreasing the powers of the Chief Executive over our local government.

Now, with respect to the suppression of the word "supreme" and in its stead the Constitution having merely provided "the executive power", this change beyond any doubt increases the powers and elevates the position of the President of the Philippines as compared to the status of the Governor-General under the Jones Law. Because as has been decided by authorities on Philippine Constitutional Law, the term "supreme" as qualifying the words "executive power" has the effect of restricting rather than enlarging the powers of the chief executive.<sup>1</sup> The fact, therefore, that the present Constitution lodges "the executive power" in the President of the Philippines, makes it clear that it has been the primary intention of the framers of the Constitution to clothe the chief executive with greater powers thus establishing a really strong and powerful executive, stronger than what we had under the Jones Law. In this connection, allow me to cite a portion of the valedictory address before the Convention of Mr. Claro Recto, then President of the Constitutional Convention and now Justice of the Supreme Court:

"During the debate on the executive power it was the almost unanimous opinion that we had invested the executive with rather extraordinary prerogatives. There is much of truth in this assertion. Learning our lesson from this truth of history, and determined to spare our people the evils of dictatorship and anarchy, we have thought it prudent to establish an executive power which subject to the fiscalization of the Assembly, and of public opinion will not only know how to govern, but will actually govern, with a firm and steady hand, unembarrassed by vexatious interferences by other departments, or by unholy alliances with this and that social group. Thus, possessed with the necessary gifts of honesty and competence, this executive will be able to give his people an orderly and progressive government, without need of usurping or abdicating powers, and cunning subterfuges will not avail to extenuate his failures before the bar of public opinion."<sup>2</sup>

Starting from the premise that the present Constitution in its spirit and letter has intended to establish a strong, powerful chief executive, we come now to the discussion of the extent of the power of the President of the Philippines over our local government. The question is: Has the President of the Philippines the same powers as the Governor-General had under the

<sup>1</sup> Sinco, Phil. Gov't. page 260, 3rd Edition.

<sup>2</sup> Recto—Valedictory address before the Convention, Feb. 8, 1935.

Jones Law on such matters as appointment, removal, suspension and dismissal of provincial and municipal officials, under our present Constitution? Are such powers included within the term "general supervision"?

As has been above quoted, the President shall have general supervision over all local government as may be provided by law. A resort to reliable sources and authorities for a discussion of the meaning and scope of the term "general supervision" would be absolutely necessary for a proper elucidation of the subject. First of all, the word "supervise" has been defined as to mean "to superintend; to direct; to have charge over, with the power of direction."<sup>3</sup> "To supervise does not mean to do the work in detail, but to see to it that it is done. It means, to oversee with power of direction. When the law requires the performance of a duty by anyone, it impliedly grants him the power to do the things reasonably necessary to discharge such duty. *It would be a vain thing to impose upon anyone a duty, and deny him the means whereby he could perform such duty*"<sup>4</sup> "The term 'general supervision' implies more than a mere power to advise and suggest; it confers the power to oversee all the acts of local officers for their direction, namely, to supervise their acts for the purpose of correcting the same; any less power would make the 'general supervision' an idle act, a mere overlooking, without power of correction or suggestion."<sup>5</sup> Again, the term "general supervision" *is not merely regulative in character* but it is an act of overseeing, inspection, superintendence, and oversight.<sup>6</sup> A very interesting and elucidating discussion of the scope of the said term can be found in the case of *Great Northern Ry. Co. vs. Snohomish County*, 93 Pac. 924, in which a part of the decision says:

"What is meant by 'supervision'? Counsel for the respondents contend that it means to confer with, to advise, to suggest, and that the board acts in an advisory capacity only. We cannot believe that the legislature went through the idle formality of creating a Board thus impotent. As decided in the case of *Vantongerren vs. Hofferan*, 38 N. W. 52, one who has the power of supervision has the power to oversee all the acts of the local officers for their direction; he has the power to supervise their acts for the purpose of correcting the same. Certainly a person or officer who can only advise or suggest to another has no general supervision over him, his acts or his conduct. The words "general supervision"

<sup>3</sup> *State v. Chicago*, 130 N. W. 804.

<sup>4</sup> *Von Rosenberg v. Lorett*, 173 S. W. 508.

<sup>5</sup> *Vantongerren v. Hofferan*, 38 N. W. 52.

<sup>6</sup> *In Re James*, 123 A. 385.

therefore imply something more than a mere power to advise and suggest, and confer authority to oversee, and review the acts and to correct the errors of those over whom the right of supervision is granted."<sup>1</sup>

The foregoing discussion of the meaning and scope of the term "general supervision" has surely made it clear and evident that the power of our President over our local governments, is not and cannot be an idle and passive one, merely advisory in character, but rather his power is one of active, vigilant direction of all the official acts and conduct of our local governmental officials. The fact that the word "control" has been omitted in our Constitution could not have the effect of placing the local governments beyond the reach and control of the President; because all the powers necessary and essential for the maintenance of an honest and efficient local government are included within the term "general supervision" as employed by our Constitution. Moreover, it would be ridiculous to suppose under our present system of centralized government, that the Chief Executive has no power to punish, reprimand, dismiss officials of the government whether insular, provincial or municipal, appointive or elective, when the conduct of such officials is conducive to inefficiency and corruption in the government. The primary duty of a Chief Executive is to see to it that the people have a clean, honest, efficient government, and in order that he may fulfill this duty, it is absolutely essential that he possesses the power to remove from service the so-called "undesirable blood."

The President, however, in the exercise of his power of general supervision should limit himself to those cases of such an important nature as to warrant direct and prompt action of a Chief Executive; but he should not go into the details of the workings of our local governments, but rather should give the latter all the opportunities of as we commonly say "living their lives". In other words, just what are the powers of the Governor-General under the Jones Law over our local governments so also are the powers of the President of the Philippines under our present Constitution. If there is any difference at all between the powers of these two Chief Executives over our local government, such difference would not be substantial.

---

<sup>1</sup> Great Northern Ry Co. v. Snohomish County, 93 Pac. 824.