THE AUTHORITY OF THE PRESIDENT OVER LOCAL OFFICIALS

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The Constitution of the Philippines has invested the President with vast powers. But as they affect certain areas, there is need for defining them with some degree of accuracy. Thus doubt has been insistently expressed on the nature and extent of the President's power over the administrative officials of the subdivisions of the Philippine Government. As a matter of fact, the decisions of our Supreme Court so far handed down in this field seem to lend force to the assumption, if not the interpretation, that the President's power over them is strictly limited, so limited that it goes no farther than mere supervision in most cases. But these judicial pronouncements are neither clearly definite nor sufficiently unequivocal.

The question affecting this Presidential authority has been of vast political significance. At bottom it has an intimate relation to the legal basis of the executive position in the governmental system established by the Constitution. The uncertainty or inadequacy of the answers that judicial decisions have so far seemed to have given has been a source of almost endless embarrassments to several Presidents. This has specially been the case when the exercise of Presidential power over local officials has taken place in an atmosphere surcharged with partisan political squabbles. Hence an inquiry into the nature of this particular authority of the President is not only of legal but also of practical value.

When we speak of *subdivisions* of the Philippine Government, we refer to the governments of provinces, cities, and municipalities. The Constitution itself makes use of this term when it refers to these entities, at times interchanging them. Limiting our discussion to this specific subject, the questions that are presently pertinent are: How much administrative power does the President have over the officers of these subdivisions? What congressional intervention is necessary or permissible in defining the relationship between the President and these officers, if any intervention is at all needed under the Constitution?

To arrive at the answers to these questions, an analysis of the position and powers of the President as stated in specific provisions of our Constitution is essential. These provisions run as follows:

> (a) "The executive power shall be vested in a President of the Philippines." (Art. VII, sec. 1)
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> (b) "The President shall have control of all executive departments, bureaus, or offices, exercise general supervision over all local

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> governments as may be provided by law, and take care that the laws be faithfully executed." (Art. VII, sec. 10, par. 1).

These constitutional provisions are intended to establish a highly centralized system of government for the Philippines. The provision that "the executive power shall be vested in a President of the Philippines" places solely in the hands of the President complete control of all the executive functions of the government except in those cases where the Constitution expressly provides otherwise. It conveys the idea that the President is *the executive*. He is not merely the *chief executive* of the government, a term which simply describes one who is the first among equals. He is the sole head, and all the other executive officials are merely his subordinates and agents rather than his equals.

How does our President compare with governors of States of the American Union or with the President of the United States in this respect? Let us take first the case of the State government. In that organization, there are other high executive officials besides the State governor who are invested with executive functions that are not subject to the supervision or control of the governor. The Supreme Court of the Philippines in the case of *Severino v. Governor-General*[1] had occasion to speak of the position of the Governor-General, the predecessor of the present President of the Philippines, and that of the governor of a State of the United States. The Court drew the comparison of the two officers in this language:

> *"Governors of States in the Union are not the 'executives' but are only the 'chief executives.'* All State officials associated with the governor, it may be said as a general rule are, both in law and in fact, his colleagues, not his agents nor even his subordinates. . . . They are not given him as advisers; on the contrary they are coordinated with him. As a general rule he has no power to suspend or remove them. It is true that in a few of the States the governors have power to appoint certain high officials, but they can not be removed for administrative reasons. These are exceptions to the general rule. The duties of these officials are prescribed by constitutional provisions or by the governor. The actual execution of a great many of the laws does not lie with the governors, but with the local officers who are chosen by the people in the towns and counties and 'bound to the central authorities of the States by no real bonds of responsibility.' In most of the States there is a significant distinction between the State and local officials, such as county and city officials over whom the governors have very little, if any, control; *while in this country the Insular and provincial executive officials are bound to the Governor-General by strong bonds of responsibility. So we conclude that the powers, duties, and responsibilities conferred upon the Governor-General are far more comprehensive than those conferred upon State governors.*" (Italics supplied).

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[1] 16 Phil. 366, 386.

In reading the foregoing passage let us again remember that the President of the Philippines is virtually the successor of the Governor-General, having practically all the powers and duties of the latter. This circumstance gives us a good idea of the difference between the position and powers of governors of States of the American Union, on the one hand, and the place and authority of the President of the Philippines as the head of the executive department and of all administrative officials in both the central and the local governments, on the other.

This position of executive and administrative supremacy of the President as defined in the Constitution is more particularly explained by the Supreme Court in the case of *Villena v. Secretary of Interior*[2] in the following terms:

> "The first section of Article VII of the Constitution, dealing with Executive Department, begins with the enunciation of the principle that 'The executive power shall be vested in a President of the Philippines.' This means that the President of the Philippines is the Executive of the Government of the Philippines, and no other. The heads of the executive departments occupy political positions and hold office in an advisory capacity, and, in the language of Thomas Jefferson, 'should be of the President's bosom confidence' (7 Writings, Ford ed., 498), and in the language of Attorney-General Cushing (7 Op., Attorney-General, 453), 'are subject to the direction of the President.' Without minimizing the importance of the heads of the various departments, their personality is in reality but the projection of that of the President."

The power of the President under the same provisions of the Constitution has also been fully discussed in *Planas v. Gil*[3] in which the Court explained the significance of the President's functions and duties under paragraph 1, Section 10, Article VII of the Constitution which says *inter alia* that the President shall "take care that the laws be faithfully executed." With respect to this provision the Court said that "in the fulfillment of this duty which he cannot evade, he is granted specific and express powers and functions. (Art. VII, Sec. 11). In addition to these specific and express powers and functions, he may also exercise those necessarily implied and included in them. (Myers vs. United States [1926], 272 U.S., 52; 71 Law. ed., 160; 47 Sup. Ct. Rep. 21; Willoughby, Constitution of the United States, p. 139.) *The National Assembly may not enact laws which either expressly or impliedly diminish the authority conferred upon the President by the Constitution.*" (Italics supplied).

The foregoing analysis merely pinpoints the obvious, namely that the President's powers are those expressly enumerated in the Constitution plus those which may be fairly implied from them. His investigatory powers may be implied from these provisions and from the provisions of Section 11 (1), Article VII, which says: "The President shall

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[2] 67 Phil. 451, 464.
[3] 67 Phil. 62, 76.

have control of all the executive departments, bureaus, or offices." Statutory evidence of this authority to investigate is Section 64 (c) of the Revised Administrative Code of 1917 which grants the President the following power: "To order, when in his opinion the good of the public service so requires, an investigation of any action or the conduct of any person in the Government service, and in connection therewith to designate the official, committee, or person by whom such investigation shall be conducted."

In the case of *Planas v. Gil*, it was held that by virtue of this statutory provision the President may order an investigation of a local official *for causes other than disloyalty, dishonesty, oppression, misconduct, or maladministration in office.* Planas, who was a woman councilor of the City of Manila, was ordered investigated by President Quezon for uttering severe criticisms against him. She questioned the President's authority to order her investigation. In resolving this point, the Court said that on the assumption that the councilor's charge which gave rise to the investigation "is not one of the grounds provided by law for which the petitioner may be investigated administratively, (Sec. 2078 Rev. Adm. Code) there is weight in the argument that the investigation could still be in order for no other purpose than to cause a full and honest disclosure of all the facts so that, if found proper and justified, appropriate action may be taken against the parties alleged to have been guilty of the illegal acts charged."

Thus under the decisions of the Court in the cases of *Villena v. Secretary of Interior* and *Planas v. Gil*, the authority of the President to investigate and to suspend local officials, whether of a city or of a municipality, has been fully established. But as may be seen later, the President's investigatory and disciplinary power really rests on a much stronger basis than on what was declared in these cases.

However, even the authority of the *Planas* and *Villena* decisions no longer offers a safe and sure guide. For in a much newer case, the case of *Lacson v. Roque*,[4] the Supreme Court has declared that the President may not suspend a local official for more than 30 days. But the question has been raised: How good is the conclusion of the Court in this case in so far as it sets limits on the President's authority over city or municipal officials? One thing appears certain, and that is that the authorities relied upon by the majority opinion of the Court in *Lacson v. Roque* respecting removal and suspension or regarding the President's power over municipal officials could not be properly made applicable in this jurisdiction. They refer to the powers of State governors; and as has been stated correctly in the case of *Severino v. Governor-General*, the governor or chief executive of a State of the American Union is not the exact counterpart of the President of the Philippines in re-

[4] 49 Off. Gaz. 95.

gard to the character and scope of his powers, functions, and privileges. The concentration of executive and administrative powers in our President is something unique in the Constitution of the Philippines. In the sense that it makes him an all-powerful head of state by constitutional provision, it gives him practically dictatorial powers for the duration of his term of office. Nowhere under the American flag is there any executive head with an equal measure of authority. In many cases, the power of a State governor over administrative and local officials is so limited that he may not remove even his own appointees.[5]

It is thus quite obvious that in relying upon decisions of American State courts and upon works of certain American commentators[6] referring to limitations of the authority of State governors over municipal officials, our Supreme Court has inadvertently overlooked this fact in its more recent decisions. Consequently, the principle established in *Lacson v. Roque* on the basis of the authorities therein cited needs a radical revision in order that the provisions of our Constitution on the powers of the President over municipal officials may be more faithfully observed.

Then, again, another consideration should not be overlooked. In the different States of the United States the power and position of municipal officials in towns and cities rest on the concept of *local self-government*. The system of local self-government virtually establishes what is often termed as an *imperium in imperio*. American municipalities are generally autonomous bodies. Each of them possesses what is appropriately termed *local self-government*, which, of course, is not the equivalent of *local government*. The two concepts do not coincide. As correctly pointed out by McQuillin:

> "Local government embraces the agencies and functions of public regulation established within an area less than that of a state, or organs of government for subdivisions or localities of the state. The officers who administer local affairs are usually chosen from and by the locality, but that is not always so. Therefore local government does not always mean government of, or by, localities. The term *'local government'* and *'local self-government'* are not synonymous. (Italics supplied).
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> "Municipal home rule in its broadest sense means the power of local self-government. Any power of local self-government, therefore, in whatever manner arising, whether inherent as sometimes claimed, or conferred or recognized by constitutional or statutory grant, or powers emanating from the people of the local community themselves and set forth in a charter authorized by the state organic law, would be included. The phrase is usually associated with powers vested in cities and towns by constitutional or statutory provisions, particularly the former, and more especially organic authorization to the local inhabitants to frame and adopt their own municipal charters. Rights

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[5] *Severino v. Governor-General*, 16 Phil. 366, 386-387.

[6] McQuillin, Municipal Corporations; Corpus Juris Secundum; American Jurisprudence.

> thus emanating by constitutional grant are viewed as constitutional rights protected from invasion or interference by the people of the state in their representative legislative capacity. Cities and towns having constitutional freeholders or home rule charters, in theory at least, derive their power of local self-government from the state constitution." [7]

On the other hand, the concept referred to and recognized by our Constitution is merely *local government*, not *local self-government*. As explained in *Planas v. Gil*, the reason for this is that no agreement having been reached in the Constitutional Convention on giving our provinces and municipalities the right of local self-government, the Constitutional Convention adopted a sort of "compromise resulting from the conflict of views in that body, mainly between the historical view which recognized the right of local self-government and the legal theory which sanctions the possession by the state of absolute control over local governments. The result was the recognition of the power of supervision and all its implications and the rejection of what otherwise would be an *imperium in imperio* to the detriment of a strong national government." Hence, decisions of American courts on the exemption of municipal governments from the control of the central government may not be indiscriminately followed in this jurisdiction.

The position and powers of the President of the Philippines are approximately comparable to those of the President of the United States. But as will soon be demonstrated, the President of the Philippines is invested with even more legal powers than the President of the United States specially in matters of administration as distinguished from those which are technically political and executive affairs. The Constitution of the United States does not make the President of the United States the sole head of the federal administrative organization. It makes him merely the sole political and executive head. The result is that many administrative officers or agencies of the American Federal Government are independent of the authority of the President. Unless Congress places them under the President, they are outside his control. As Lindsay Rogers states: "Throughout much of the administrative field, the President is unable to initiate or to prevent. The heads of departments and independent establishments have authority which is theirs to use without the necessity of securing presidential approval." [8]

The constitutional position of the President of the Philippines is quite different. For our Constitution expressly makes him the sole head of the entire administrative machinery of the Philippine Government. Thus the President of the Philippines plays a dual constitutional role: that of executive and that of administrative head of the government. As executive head, his powers are defined in specific con-

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[7] McQUILLIN, MUNICIPAL CORPORATIONS, Third ed., sec. 1.93, p. 240.
[8] Quoted in Herring, *Presidential Leadership*, p. 111.

stitutional provisions which, in turn, emanate from the constitutional provision which says: "The executive power shall be vested in a President of the Philippines." As administrative head, his powers directly flow from this provision: "The President shall have control of all the executive departments, bureaus, or offices." This provision finds no counterpart in the Constitution of the United States. Consequently, the United States Supreme Court held in the case of *Kendall v. United States*[9] that the President of the United States does not have any exclusive administrative direction over every department and branch of the United States federal government. More specifically the Court said on this point:

> "The executive power is vested in a President; and in so far as his powers are derived from the Constitution, he is beyond the reach of any other department, except in the mode prescribed by the Constitution, through the impeaching power. But it by no means follows that every officer in every branch of that department is under the exclusive direction of the President. Such a principle, we apprehend, is not, and certainly can not be claimed by the President. There are certain political duties imposed upon many officers in the executive department, the discharge of which is under the direction of the President. But it would be an alarming doctrine, that Congress can not impose upon any executive officer any duty they may think proper, which is not repugnant to any rights secured and protected by the Constitution; and in such cases, the duty and responsibility grow out of and are subject to the control of the law, and not to the direction of the President. And this is emphatically the case, where the duty enjoined is of a mere ministerial character."

To clarify this point: Under the Constitution of the United States, the line of administrative control or direction runs directly from Congress to the administrative departments and offices of the American federal government. Hence, it is Congress that decides how and by whom the departments and other offices of the United States federal government should be administered and directed. If Congress should desire to make the President of the United States the head of the administrative department, it may do so. But if Congress should not so desire, it is absolutely free to give that authority to any other official than the President. The American Constitution, therefore, established what is known as a system of decentralized administration. Experts have criticized this system as inefficient and even conducive to irresponsibility. But we shall deal with this subject more extensively later.

The weakness of the President of the United States in matters of administration has been discussed by W. F. Willoughby, a well-known writer on administration; and in the course of his discussion he says:

> "From the purely constitutional standpoint he, thus, is not head of the administration. Even the heads of the great executive depart-

[9] Pet. 552.

> ments constituting his cabinet are not his subordinates in the sense that he has legal authority to give orders to them in respect to the performance of their duties. From the legal standpoint his authority in respect to them is executive in that it consists merely of his right to take such steps as may be necessary to see that such orders as are given to them by law are duly enforced. Substantially the same condition exists in the individual states in respect to the constitutional status and powers of the governors. To state this condition in another way, the line of authority in both the national and state governments runs directly from the administrative services to the legislature, except where the latter has expressly provided otherwise." [10]

On the other hand, under the Constitution of the Philippines, the line of administrative control runs from the President of the Philippines directly to all the administrative offices and departments of the Philippine government. The Congress of the Philippines, unlike the American Congress, has no constitutional authority to vest, independently of the President, the power of supervision and direction over all or any of the administrative offices and departments of the Philippine government in any other official. Thus in the field of administration, the Constitution has placed the President of the Philippines in a position of supremacy. It has established a highly centralized system of administration upon the pattern of a pyramid with the President at its apex.

It is thus evident that by virtue of the position of the President as sole head of the administration and because of the pattern of the Philippine administrative system, which includes both the national government and the government of all subdivisions, he has the authority and the duty to take disciplinary action over all administrative officers, appointive or elective, national or local. He may place them under investigation, and suspend and remove them for cause. This is unavoidable, his position not being merely regulatory or advisory in character. The Constitution is clear on this point: "The President shall have the control of all executive departments, bureaus, or offices." These terms are comprehensive enough to embrace the entire field of administration. They leave no room for independent offices outside of what the Constitution might have provided.

As the constitutional head of the administration, the President stands outside the authority of Congress. The power of control vested in him by the Constitution is intended to enable him to manage an effective centralized administrative system. It is intended to enable him to fix a uniform standard of administrative efficiency which he cannot establish unless he has disciplinary authority over all administrative officials and employees. Obviously, the power of control loses its meaning if shorn of full disciplinary authority. No implementing congressional statutes are needed to enable him to exercise this power of control.

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[10] W. F. WILLOUGHBY, PRINCIPLES OF PUBLIC ADMINISTRATION, pp. 36-37.

Some emphasis need be placed on this last statement. For the constitutional provision would be meaningless unless it is self-executory. If we were to assume that Congress must first pass a law defining how the President should control administrative officers, on what occasions he should exercise his power of control, for what reasons administrative officials should be controlled by him, we would be depriving the President of discretion and judgment in the use of a power granted to him exclusively by our Constitution. This may not be validly done. The principle of separation of powers read in connection with the express provision of the Constitution forbids such assumption.

If it should be claimed that this interpretation of the Constitution would be violative of the Rule of Law, or the principle of government of laws and not of men, the answer is that in administrative cases the rights to life, liberty, and property are not essentially involved, and the Constitution recognizes this qualification. In the classic language of the United States Supreme Court, speaking through Justice Mathews, "it is, indeed, quite true that there must be lodged somewhere and in some person or body the authority of final decision, and in many cases of mere administration the responsibility is purely political, no appeal lying except to the ultimate tribunal of public judgment, exercised either in the pressure of opinion or by means of the suffrage." [11]

It is, therefore, evident that the President does no more than exercise his constitutional power as the supreme administrative head when, for example, he suspends a municipal or city mayor from his office pending investigation of his conduct as a subordinate administrative officer accused of violating a national law. It would be an illegal invasion of this discretionary authority for Congress or the courts to interfere with it by limiting the duration of the suspension of a subordinate official to 30 days or to any other length of time. An investigation ordered by the President may last a week, 6 months, or a year, depending upon the difficulty or ease of securing pertinent information or upon the complexity of the case. The President might deem an order of suspension necessary during the progress of the investigation; or he might think it proper to punish him with further suspension after the investigation is concluded.

No subordinate administrative official, such as a provincial governor or a city mayor, may legally complain that a lengthy investigation and suspension deprive him of any right of property, for a public office is not property. It is not created nor obtained by contract. A public office is a public trust. If, in the opinion of the President as the constitutional head of the administration, a provincial or municipal official is not worthy of public confidence and trust, neither Congress nor the courts have any authority to compel the President to adopt a contrary attitude. The mere fact that the position held by the official is elective does not give him any

[11] *Yick Wo v. Hopkins*, 118 U.S. 356.

more rights nor does it lessen his duties under the Constitution and the laws than if the position had been appointive. Election and appointment are merely two different methods of filling a public office. One method gives no more legal and constitutional rights to the holder of an office than the other method. There may be political differences but such differences have no legal consequences apart from what may be provided by the laws creating the office.

It is of course true that in the case of a governor of a province or a mayor of municipality, the official's right to hold the office arises not from an act of appointment but from the fact of his election. But his right to hold the office is subject to the constitutional authority granted by the Constitution to the President to supervise and control the administration. By definition control is a power of the highest order. It presupposes the right of initiative on the part of the official possessing that authority as well as the authority of final decision on questions and matters within his jurisdiction. The President's order suspending such officials being purely administrative in nature, responsibility for it lies only in "the ultimate tribunal of public judgment."

It is true that the Administrative Code in its Section 64, paragraph (b) seems to limit the power of the President to remove in these terms:

> "To remove officials from office conformably to law and to declare vacant the offices held by such removed officials. For disloyalty to the Republic of the Philippines, the President of the Philippines may at any time remove a person from any position of trust or authority under the Government of the Philippines."

It would seem that under this provision disloyalty is the only statutory ground for the removal of a public officer by the President. But the context of this section is sufficient to nullify this apparent restriction. Let us note that the provision starts with a statement of *a general power given to the President* to remove officials from office conformably to law and to declare vacant the office held by such removed officials. This is a broad authority. Disloyalty is just one of the causes which in a sense may be considered as merely suggested by Congress. The United States Supreme Court in the famous case of *Springer v. Government of the Philippines*,[12] declared that the rule of *inclusio unius, exclusio alterius* does not apply in the case where a statute grants a general power and also a specific one which may be included among those comprehended in the general grant.

But there is another important consideration: This provision of the Administrative Code (sec. 64, par. b) may not be considered an original grant of authority to the President, because the President has already that authority under express provisions of the Constitution. The constitutional power of the President to control administrative officials must include, *by necessary implication*, the power to remove. In any language,

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[12] 277 U.S. 189, 48 S. Ct. 480, 484.

control over subordinate officials should comprehend the power of removal, otherwise it would be something else, not control. Therefore, this provision of the Administrative Code must necessarily be considered as merely *declaratory* of the constitutional authority of the President,—a recognition of his position as supreme head of the administration. The contrary idea would do violence to the purpose of the fundamental law.

It would be absurd to assume that disloyalty to the Republic could be the only cause of administrative inefficiency. Experience has shown many other causes. Insubordination, negligence, drunkenness, immorality, disrespect to law and order, and other forms of misconduct on the part of administrative officers impair the efficiency of the administration without necessarily involving any question of disloyalty to the Republic. To ignore these causes of inefficiency would merely place the President in a position of responsibility without power. The Constitution could not have contemplated such condition when it has precisely vested in the President the *power of control* over all departments and offices of the government. To so limit the disciplinary authority of the President over administrative officials would proportionately limit this broad power. Neither the letter nor the spirit of the Constitution warrants such diminution.

The discretionary nature of the power of the President is clearly manifested in another provision of the Administrative Code which mentions among the powers of the President the following: "To order, *when in his opinion* the good of the public service so requires, an investigation of any action or the conduct of any person in the Government service, and in connection therewith to designate the official, committee, or person by whom such investigation shall be conducted."[13] This statutory provision should likewise be understood as merely declaratory of a power which the Constitution has itself given to the President when it vests in him the authority to control all the executive departments, bureaus, or offices of the government. The words "*when in his opinion the good of the public service so requires*" leave no doubt about the discretionary nature of the authority. It is implicit in this investigatory power the right of the President to suspend the official investigated if in his opinion such step is required for a fair and unimpeded investigation.

But now we come to a point which has not yet been squarely met and fully explained in any decision of our Supreme Court. It concerns the meaning and scope of the following provision of the Constitution: "The President shall... exercise general supervision over all local governments as may be provided by law."

This constitutional provision indeed involves two restrictions on the power of the President. The first refers to the limitation of the President's power over local governments to mere general supervision, not control; and the second is that such general supervision shall be exercised in ac-

[13] Sec. 64 (c).

cordance with law. Let us consider this constitutional provision carefully.

A thorough understanding of its real meaning is not possible unless the provision is considered in relation to the President's power of control over the executive departments, bureaus, or offices. The provision in full reads as follows: "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."[14]

Let us note carefully how this provision distinctly classifies the functions of the President into two separate groups. In the first, which we have previously discussed, the President is given control over all executive offices. In the second, he is to exercise general supervision over all local governments as may be provided by law. In the first, the Constitution itself directly gives him the power of control. It says, "The President shall have control." As previously indicated, the President does not have to wait for any organ, officer, or agency to give him the power to control all executive offices. The terms of the grant of this power are direct and unequivocal. While in the second, the exercise of general supervision over all local governments *as may be provided by law* implies the intervention of Congress. The implication is that while general supervision shall be exercised by the President, the control over all local governments belong to Congress. Here the Constitution merely follows the general practice and tradition of the States in the American Union of placing local governments under legislative control.

Legislative control over local governments is the invariable rule except when the contrary is expressly provided in the constitution; but this has not been done under the Constitution of the Philippines. Consequently, the Philippine Congress possesses full authority to create or to dissolve local governments. But having once created local governments, Congress has to give to the President the power of supervising them. This is the maximum authority the President may exercise over *local governments*. Congress itself may not place local governments under the control of the President, even if it wants to, for the Constitution has laid down the exact measure of power that the President may exercise over them. As summarized in McQuillin's work on Municipal Corporations: "In the absence of any restriction in the constitution, express or implied, the general legal doctrine, supported by an unbroken line of authorities, is that *political powers conferred upon municipal corporations for local government* are not vested rights as against the state, and the legislature has absolute power to change, modify, or destroy them at pleasure."[15] (Italics supplied).

Note the care with which the foregoing summarization is expressed: "political powers conferred upon municipal corporations for *local govern-*

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[14] CONSTITUTION OF THE PHILIPPINES, Sec. 10 (1).
[15] 2 MCQUILLIN, MUNICIPAL CORPORATIONS, 3rd Ed., sec. 4.05, p. 13.

ment." This careful particularization of powers conferred upon municipal corporations for *local government* brings out the idea that there are other powers conferred upon municipal corporations not for local government but for the performance of general governmental functions. This is but the consequence of the dual nature of a municipal corporation. A municipal corporation is in part an agent of the state and, as such, it is a unit of the central government; and in part it is an organ of local government to administer the local affairs.[16] These two aspects of a municipal corporation, such as a province, a city, or a municipality, has been so often recognized and explained in decisions of American and Philippine courts that it is superfluous to discuss the principle at length.

As to when an officer of a municipal corporation act as an agent of the state and when he acts as an officer of the local government the answer depends upon the nature of the function he performs. Thus McQuillin explains clearly this subject:

> "Officers of a municipal corporation may be classified as (1) those whose functions concern the whole state or its people generally, although territorially restrained, and (2) those whose powers and duties relate exclusively to matters of purely local concern. Ordinarily, where not otherwise provided by the constitution of the state, the legislature may control municipal officers whose duties pertain to the state at large or the general public, but may not, subject to certain exceptions, interfere with or regulate officers whose functions pertain exclusively to the municipality of which they are officers. However, the same officer may, in the exercise of some of his powers, act as a state officer and in the exercise of other powers, act solely as a purely municipal officer, so far as legislative control is concerned. Generally, in the absence of special constitutional provision, all officers whose duties pertain to the exercise of the police powers of the state, are in that sense state officers, and under the control of the legislature, even though they are officers of a municipality and charged with the enforcement of the local police regulations of the municipality.
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> "Conflicting decisions as to legislative control of officers of a municipality often may be reconciled, at least in part, by distinguishing between the two types of officers, a matter closely connected with the distinction between state and municipal affairs of a municipal corporation, so far as legislative control is concerned, which has already been considered in this chapter. The one class of officers is often referred to as state officers and the other as municipal officers. The distinction between the two rests on the extent of their powers and the nature of their duties, rather than the time and manner of election or appointment."[17]

The power of the President over local governments under the Constitution may be well understood and correctly defined if this dual nature of a municipal corporation is borne in mind. Unfortunately, this particular point has been overlooked in all discussions of this question.

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[16] *Mendoza v. De Leon*, 33 Phil. 508; *Vilas v. City of Manila*, 42 Phil. 953.
[17] 2 McQUILLIN, MUNICIPAL CORPORATIONS, 3rd Ed., sec. 4.115, p. 171-172.

The Constitution explicitly declares that the President shall "exercise general supervision over *local governments* as provided by law." It should be carefully noted that the Constitution refers expressly to *local governments*. In this particular provision, the Constitution refrains from using the term municipal corporations or municipalities, provinces, and cities, or subdivisions of the government, all of these concepts being used in other provisions . Therefore, *it follows that the President's power of general supervision refers only to that aspect or phase of a municipal corporation pertaining to local government.* When the municipal corporation acts as an agent of the state, it acts as a unit or an organ of the central government, and consequently, it is subject to the *control* of the President.

It is the confusion of these two distinct categories of a municipal corporation that has caused a good deal of misunderstanding of the powers of the President of the Philippines over city, provincial, and municipal officers. By avoiding this obvious error, the field of authority vested in the President is rendered visible and clear. The only questions that need be asked in any given case are whether an act of a local official concerns the national government or whether it concerns exclusively local affairs. If it is the first, then the official is an agent of the national government regardless of his designation, whether that of city mayor, municipal councilor, or provincial governor; and, as such, he is under the control of the President. If, on the other hand, his act refers to purely local matters then he is merely an agent of local government. In this case, he is merely subject to the President's power of general supervision rather than to his power of control.

To disregard these two distinct categories of a municipal corporation would impair the unitary and centralized character of our governmental system. It would result in the creation of a haphazard decentralized administrative or governmental organization. It would produce confusion and would be violative of the Constitution which has precisely refrained from providing municipal autonomy or local self-government.

To summarize, the Constitution has established a highly centralized system of administration by vesting all executive authority and full control of all the administrative functions of the government in one officer,—the President of the Philippines. He is held solely responsible for the execution of the laws and for all acts of administration. As the head of the administrative offices of the government, he is the constitutional *Major-Domo* of the nation directing the housekeeping functions of all the executive departments, bureaus, or offices of the government. It is his responsibility to see to it that all administrative officers faithfully perform their duties. This he cannot do unless he has full control over them; and the Constitution has precisely placed this power in his hands to be directly exercised by him.

There is no parity in administrative authority between the President of the Philippines and the President of the United States. Much less is there such parity between the Philippine President and the governors of States. For this reason, it is not only dangerous but downright erroneous to indiscriminately make use of American decisions affecting questions of administrative regulation and control.

American municipalities largely enjoy *local self-government* either from tradition or by virtue of constitutional guaranties. This is the legal and factual basis of American decisions protecting State local officials against the power of the governor to remove or to suspend them. On the other hand, our Constitution has no guarantees to local self-government. It speaks only of *local governments*. Thus again any indiscriminate use of American decisions on the immunities of local officials from state control may only lead our courts into unwarranted conclusions.

The highly centralized character of our government unavoidably places all executive and administrative officers, including municipal, city, or provincial, under the control of the President as long as they exercise functions of a general nature. Presidential control over them is reduced to mere supervisory authority only in those cases when local officials perform functions restricted in its effect and validity to the jurisdiction of the city, municipality, or province. Any disturbance of this arrangement would be fatal to the system of administrative centralization.