Legal Status of Local Governments

"The President shall . . . exercise general supervision over all local governments as may be provided by law, . . ." This implies a subordination of local governments to the National Government. Without such a provision, the subordination of the local governments will not exist under the Constitution but under a judge-made theory, as in the United States. Local governments in that country are considered subordinate bodies because of Chief Justice Dillon's dictum in *City of Clinton v. Cedar Rapids and Missouri R. R.*, which reads:

"Municipal corporations owe their origin to, and derive their power and rights wholly from, the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so it may destroy. If it may destroy, it may abridge and control. Unless there is constitutional limitation on the right, the legislature might, by a single act, if we can suppose it capable of so great a folly and so great a wrong, sweep from existence all of the municipal corporations in the States, and the *corporations* could not prevent it. We know of no limitation on this right so far as the corporations themselves are concerned. They are so to phrase it, the mere *tenants at will* of the legislature."[5]

This view was followed by the West Virginia Supreme Court of Appeals in 1915 in the case of *Booten v. Pinson.* Speaking for the court, Mr. Justice Williams said:

"Municipalities are but political subdivisions of the state, created by the legislature for purposes of governmental convenience, deriving not only some, but all, of their powers from the legislature. They are mere creatures of the legislature, exercising certain delegated governmental functions which the legislature may revoke at will. In fact, public policy forbids the irrevocable dedication of governmental powers. The power to create implies the power to destroy."[6]

The subordinate status of municipalities as first judicially asserted by Chief Justice Dillon in 1868 was challenged three years later by Judge Cooley's historical view

[5] 24 Iowa 455, 475 (1868).
[6] 77 W. Va. 412 (1915).

of inherent rights of local self-government in the case of *People v. Hurlbut*,[7] followed by the state courts of Indiana, Kentucky and Texas.[8] Judge Cooley maintained that "the constitution has been adopted in view of a system of local government, well understood and tolerably uniform in character, existing from the very earliest settlement of the country, never for a moment suspended or displaced, and the continued existence of which is assumed," and that "the liberties of the people have generally been supposed to spring from, and be dependent upon, that system." He said further:

"It is not the accepted theory that the states have received delegations of power from independent towns; but the theory is, on the other hand, that the state governments precede the local, create the latter at discretion, and endow them with corporate life. But, historically, it is as difficult to prove this theory as it would be to demonstrate that the origin of government is in compact, or that title to propery comes from occupancy. The historical fact is, that local governments universally, in this country, were either simultaneous with, or preceded, the more central authority . . . The right in the state is a right, not to run and operate the machinery of local government, but to provide for and put it in motion. It corresponds to the authority which constitutional conventions sometimes find it needful to exercise, when they prescribe the agencies by means of which the new constitution they adopt is to be made to displace the old."

Evidently in furtherance of Judge Cooley's stand, Mr. Justice Poffenbarger, in his dissent in the *Booten* case, said:

"Assertions of inherent right . . . mean no more than that, as municipal corporations were known, at the date of the adoption of the Constitution, local self-government was an invariable attribute or element thereof, just as a piston and a steam chest are now known to be parts of steam engines, wheels necessary elements of wagons, and foundations essential parts of houses. In that sense, it was literally and indisputably inherent . . . . Legislatures are no older nor better defined, legally, historically, or scientifically, than

[7] 24 Mich. 44 (1671).
[8] Council of State Governments, *State-Local Relations* 141 (1949).

municipal corporations. Each has its vital and distinctive characteristics and functions. Each is an agency of the state. Neither is the state."

To date, the weight of authority in the United States denies the existence, in the absence of special constitutional provisions, of any inherent right of local self-government which is beyond legislative control. With us, a compromise view of the legal status of municipalities has been adopted by the framers of our Constitution. According to Mr. Justice Laurel in the case of *Planas v. Gil*:

" . . . the deliberations of the Constitutional Convention show that the grant of the supervisory authority to the Chief Executive in this regard was in the nature of a compromise resulting from the conflict of views in that body, mainly between the historical view which recognizes the right of local self-government (People ex rel. Le Roy v. Hurlbut [1871], 24 Mich., 44) and the legal theory which sanctions the possession by the state of absolute control over local governments (Booten v. Pinson, L.R.A. [N.S., 1917-A], 1244; 77 W. Va., 412 [1915]). 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." [9]

This compromise view constitutionally protects the existence of the local governments as instrumentalities to administer local affairs and problems of the area within their respective boundaries. The Congress of the Philippines retains the power of political control over the local governments, but it cannot "sweep" them from existence and bring, as it had the power to do were it not for the constitutional provision adverted to, all the inhabitants and property "again" under the direct control of the State or central government in all their relations among themselves and with the State.[10] Neither can the Congress take away the local governments from the President of

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[9] 67 Phil. 62, 78 (1939).

[10] *Cf.* Aguado v. City of Manila, 9 Phil. 513 (1908); Phil. Corp. Livestock Ass'n v. Earnshaw, 59 Phil. 129 (1933).

the Philippines as said constitutional provision grants him the power of general supervision over them. This brings us to a discussion of the meaning of the term "supervision" as used in the hereinbefore quoted provision of our Constitution.

Meaning of Supervision over Local Governments

From another standpoint, it may be said that the framers of the Constitution of the Philippines deliberately placed the local governments under the general supervision of the President owing to the unitary system of the Philippine Government they established. We have only *one government.* As defined in Section 2 of the Revised Administrative Code: " 'The Government of the Philippines' is a term which refers to the corporate governmental entity through which the functions of government are exercised throughout the Philippines, including, save as the contrary appears from the context; the various arms through which political authority is made effective in the Philippines, whether pertaining to the central Government or to the provincial or municipal branches or other form of local government." This unitary or centralized government has been adopted in this jurisdiction because, in the words of Delegate Jose M. Aruego, "The political traditions of the people had been for an integrated and centralized administrative system." [11] This system is similar at least in form, to the unitary system of government of England, France, and Italy. It is different from the American system. I will explain why we have borrowed from all these systems, the purpose being to show the nature of the duty of the President to exercise general supervision over the local governments.

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[11] I Aruego, *The Framing of the Philippine Constitution* 429 (1936).