

debate in the United States Senate on the question whether the power of removal, and hence the control of executive officials, belonged to the President, the Senate, or both.<sup>46</sup> Mr. Justice Peckham said in *Parsons v. United States*:

"Then ensued what has been many times described as one of the ablest constitutional debates which has taken place in Congress, since the adoption of the Constitution. It lasted for many days, and all arguments that could be thought of by men—many of whom had been instrumental in the preparation and adoption of the Constitution—were brought forward in debate in favor of or against that construction of the instrument which reposed in the President alone the power to remove from office."<sup>47</sup>

This implied power of the President to remove public officers in the executive, we may also say administrative, departments is applicable not only to the officers of the National government but also to those of the local governments, the simple reason being that both levels of governments form part of the "The Government of the Philippines" as defined in Section 2 of the Revised Administrative Code.

#### ***Removal of Elective Local Officials***

One of the sources I indicated above from which the President may derive his implied power to remove local officials is Section 4 of Article XII of the Constitution which provides that "No officer or employee in the Civil Service shall be removed or suspended except for cause as provided by law." This provision refers to those falling under the "merit system" and not to those belonging to the "political system" or the "patronage system."<sup>48</sup> The local elective officials belong to the "political system" and those appointed by the President and other appointing

<sup>46</sup> United States Civil Service Commission, *History of the Federal Civil Service* 3 (1941).

<sup>47</sup> 167 U. S. 324, 329 (1897). See also Charles Warren's account of the debate, quoted in Rivera, J., *Law of Public Administration* 659 (1956).

<sup>48</sup> Field, O., *op. cit. supra* note 42, at 3. See *War v. Leche*, 189 La. 113, 179 So. 52 (1937).

authorities are under the "patronage system." All belong to "the civil service" as distinguished from the naval or military service.<sup>49</sup> As the Constitution provides, those under the "merit system"<sup>50</sup> may only be removed "for cause as provided by law." As to those under the "political" and "patronage" system, the President, I submit, may be guided by the causes *declared* by Congress which do not abridge his power of removal or by any cause he may in conscience and discretion consider as a good cause for removal. Thus he may remove a municipal mayor for what he believes to be moral turpitude even before the mayor's conviction "independently," as I stated in a book, "of Section 2188 of the Administrative Code or of any statute, declaratory of the President's power or not."<sup>51</sup> The reason is that it is the obligation of the President "to set the moral tone as chief executive for the entire administration. His own decisions and attitudes largely determine the morale and the standards of officials throughout the government. His words and actions have consequences beyond their immediate effects."<sup>52</sup> Moreover—

"In administrative investigation guilt need not be proven beyond a reasonable doubt. The investigator does not sit in judgment upon the respondent but merely ascertains the facts so that the proper administrative officer can determine the desirability or undesirability of retaining the accused employee in the service. Public office, by its nature, demands that the incumbent be above reproach; public servants, by the power they wield assume a position of trust and confidence. A high ethical and moral standard is therefore contem-

<sup>49</sup> *Hope v. City of New Orleans*, 30 So. 842, 843; *Long v. Weils*, 198 S.E. 763, 768; *Kennedy v. State Personnel Board*, 57 P. 2d 486, 487.

<sup>50</sup> "'Civil service' without the definite article is used to describe certain procedures of recruitment and personnel management; in this sense it refers more to an organization. It is in this latter use that the term 'merit system' applies, as distinguished from the 'political system' or the 'patronage system.' It is possible to distinguish between the two meanings of the phrase only by reference to the context." Field, *op. cit.*

<sup>51</sup> *Law of Public Administration* 658 (1956).

<sup>52</sup> *Graham, G., Morality in American Politics* 157 (1952).

plated. The moment the honesty, morality or integrity of a public officer is seriously impeached he can and should be separated. It is essential that public employees be not only efficient but also morally clean and upright, for in no other way can the good name and dignity of the service be maintained. In cases of immorality, for example, it is immaterial whether the offended woman has consented or not, or is of unchaste reputation, or is of age. Aside from the injury done to private parties, there is the insult to the state and the highly demoralizing effects of such act when committed by public officers." <sup>53</sup>

### *Conclusions*

From all the foregoing considerations, I conclude :

1. That the President of the Philippines, as the Administrative Chief or Head of the Administration, has power of general supervision over *the local governments*. This is our political tradition learned from the French centralized administrative system through Spain, our first mother country, owing to which we should logically look, if we may, upon the practices of France <sup>54</sup> or of England <sup>55</sup> for guidance as to the meaning of "supervision" from one level of government to another, a system opposite the "American System."
2. That the President of the Philippines, as the Executive and the Administrative Chief or Head of the Administration has power of removal (and therefore control) and supervision over not only the public officers of the local governments of any category, arising from his duty to see that the laws be faithfully executed. This duty of supervision, which may include control, is distinct and separate from the President's power of general supervision over the local governments.
3. That the President of the Philippines, as the Administrative Chief, has control not only of all the executive

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<sup>53</sup> Director of Civil Service, *Twenty-Ninth Annual Report (Bureau of Printing, Manila, 1929)*, p. 18.

<sup>54</sup> See notes 18 to 21, *supra*.

<sup>55</sup> See note 22, *supra*.