

in command of the ship, but he does not himself hold the steering wheel, run the engines, or give instructions to the galley,"<sup>26</sup> or by Willoughby when he said: "The President in the execution of his duty to see that the laws be faithfully executed, is bound to see that the Postmaster-General discharges 'faithfully' the duties assigned to him by law, but this does not authorize the President to direct him how he shall discharge them."<sup>27</sup>

### *Meaning of Control*

After defining "supervision" as used in the second part of the section of the Constitution quoted above, from the standpoint of administrative law, the Supreme Court proceeded in the *Silvosa* case to distinguish it from "control" by saying: "Control, on the other hand, means the power of an officer to alter or modify or nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for that of the latter." This is the form of control which John M. Gaus had in mind when he said: "We are apt to think of the word 'control' as expressing a negative, forbidding, preventive, and even punitive attitude or action."<sup>28</sup> The supervisory form of administrative control refers to "the duty of the chief executive to keep informed of the course of administrative operations, to intervene where necessary to settle jurisdictional disputes, to guide the policy and program of the whole organization, and to supply the over-all sense of direction."<sup>29</sup> Such form of control stems also from his duty to see that the laws be faithfully executed. It is the "administrative control" referred to in Section 79 (C) of the Revised Administrative Code, as distinguished from the power that "The

<sup>26</sup> White, L., *Introduction to the Study of Public Administration* 51 (1948).

<sup>27</sup> Willoughby, W., *Constitutional Law of the United States* Sec. 1418 (1929).

<sup>28</sup> Gaus, J., *Reflections on Public Administration* 93 (1947).

<sup>29</sup> White, *op. cit.*, *supra* note 26, at 51.

President shall have control of all the executive departments, bureaus, or offices.”<sup>30</sup> This is the political or hierarchical control of the administrative branch intended to make the President of the Philippines constitutionally the Administrative Chief of our bureaucracy. It is the provision not found in the United States Constitution because the President of that country was originally intended to be primarily a political chief. Said Willoughby:

“In the United States it was undoubtedly intended that the President should be little more than a political chief; that is to say, one whose functions should, in the main, consist in the performance of those political duties which are not subject to judicial control. It is quite clear that it was intended that he should not, except as to those political matters, be the administrative head of the government, with general power of directing and controlling the acts of subordinate Federal administrative agents. The acts of Congress establishing the Department of Foreign Affairs [State] and of War, did indeed recognize in the President a general power of control, but the first of these departments, it is to be observed, is concerned chiefly with political matters, and the second has to deal with the armed forces which by the Constitution are expressly placed under the control of the President as Commander-in-Chief.”<sup>31</sup>

While the Constitution vests in the President the power to “exercise general supervision over all local governments,” and is silent on whether he has any power of control over such governments, it does not thereby mean that the President may not exercise some kind of control over the local governments. In this connection, *administration* must not be confused with government. The latter refers to the conduct of an undertaking towards its objective by seeking to make the best possible use of all the resources at its disposal. On the other hand, the former means to plan, to organize, to command, to co-ordinate, and to control.<sup>32</sup> As the *Executive* and the *Administrative*

<sup>30</sup> Phil. Const. Art. VII, Sec. 10 (1), cl. 1.

<sup>31</sup> Willoughby, *op. cit.*, *supra* note 27, Sec. 958.

<sup>32</sup> Urwick, L., *The Elements of Administration* 16 (1943).

*Chief* the President has full control over the local governing bodies as bodies politic. These bodies have dual functions. As a body politic, a municipality or city is a political organ. It is the instrumentality of the State in exercising powers and duties not strictly or properly local in their nature, but which are in their essence state powers, and, therefore, to this extent it is a mere agency of the state, aiding in the administration of state affairs in so far as such matters affect the people residing within the local community in common with the inhabitants of the State.<sup>33</sup> Here the President obviously has control as well as supervision. The latter may be delegated to the provincial governor. Under the law the provincial governor is "the chief executive officer of the provincial government. As such it shall be his duty to exercise, in conformity with law, a general supervision over the government of the province and of the municipalities or other political subdivision contained in it and to see that the laws are faithfully executed by all officers therein."<sup>34</sup> This power is called in France, whose system of local government administration is the mother of ours, *tutelle administrative* (administrative guardianship). The provincial governor, like the prefect in France, is the dominant figure in local administration. He is "the link, and sometimes the buffer, between the central administration and the local area."<sup>35</sup> He, like the prefect, concentrates in his own person the perpetual conflict of authority and freedom . . . He is at once the agent of the government, the tool of the party, and the representative of the area which he administers."<sup>36</sup>

The Presidential power of control of local governments may be exercised in various ways. In a unitary government like ours and those of England, France and Italy, all authority for local officials in local areas proceeds from and rests upon the central government. The acts of the

<sup>33</sup> 43 C. J. 69-70.

<sup>34</sup> Rev. Adm. Code, Sec. 2082

<sup>35</sup> Ranney and Carter, *op. cit.*, *supra* note 15, at 449.

<sup>36</sup> *Ibid.*

local government officials are always subject to the scrutiny of an agent or representative of the central government of the state. As a body corporate, a municipality is a corporation, created to regulate and administer the affairs of the area embraced within its corporate limits, in matters peculiar to such place and not common to the State at large. Here the Congress has the control, for it can go to the extent of abolishing the corporation. On his part the President may exercise supervision in the constitutional sense of the meaning of the term, as, for instance, to stimulate greater and more diversified efforts to improve local affairs. But he may exercise some form of control. For instance, he may advise the local governments to use their pre-war deposits, which are purely their own money in the custody of the Philippine National Bank, for drilling artesian wells in their respective barrios, otherwise he will not authorize their releases for other purposes. As will be noted the latter is a form of control, a negative and forbidding control. This is an element of administration.

### ***Presidential Supervision of Local Officials***

In the *Silvosa* case hereinbefore cited, the Supreme Court said through Mr. Justice Padilla:

"Section 10, paragraph 1, Article VII, of the Constitution provides: '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.' Under this constitutional provision the President has been invested with the power of control of all the executive departments, bureaus, or offices, but not of all local governments over which he has been granted only the power of general supervision as may be provided by law . . . Likewise, his authority to order the investigation of any act or conduct of any person in the service of any bureau or office under his department is confined to bureaus or offices under his jurisdiction and does not extend to local governments over which, as already stated, the President exercises only general supervision as may be provided by law."