

JUAN DE G. RODRIGUEZ, ETC., ET AL., PETITIONERS, VS. AURELIO MONTINOLA, ETC., ET AL., RESPONDENTS.

G.R. No. L-5689. May 14, 1954

Ponente: LABRADOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/866f26547d62/>

LABRADOR, J.:

This is an original action of certiorari instituted in this Court by the Provincial Governor and the members of the Provincial Board of Pangasinan to nullify the disapproval of the Secretary of Finance of their Resolution No. 55 dated January 30, 1952, abolishing the positions of three special counsel in the province, to prohibit the provincial treasurer and the district auditor from paying the salaries of three special counsel from February 1, 1952, and to prevent the latter from continuing to occupy and exercise the functions incident to their positions.

On January 30, 1952, a month after the petitioners assumed their respective offices as a result of the victory of the Nacionalista Party in the Province of Pangasinan in the general elections of 1951, the provincial board passed Resolution No. 55, the pertinent provisions of which are as follows:

* * * * *

WHEREAS, the continuation of the offices of special counsel in this province is not an urgent necessity for the present;

WHEREAS, the discontinuance of the offices of special counsel will not impair the administration of justice to the people of Pangasinan as there are at present three assistant provincial fiscals, one provincial fiscal and one Special Prosecutor making five in all.

* * * * *

RESOLVED, to abolish as they are hereby abolished effective on the 1st day of February, 1952, the various positions of Special Counsel in the Province of Pangasinan, without prejudice of recreating them in the future if and when necessity arises and exigency of times demand their recreation in the interest of the promotion of peace and tranquility, and provided that the funds of the province shall warrant their recreations. The following day, January 31, 1952, the provincial board ordered the reversion of the amounts appropriated for the salaries of the three positions above mentioned to the general fund of the province, the same to be available for other purposes to be later specified by the provincial board. (Resolution No. 63, Annex B.) On February 6, 1952, by Resolution No. 71, a new position of clerk-stenographer was created in the office of the provincial governor, with compensation at the rate of P1,680 per annum, the salary to be paid out of the funds¹ reverted to the general fund due to the abolition of the positions of special counsel (Annex C). That same day, February 6, 1952, the provincial board also appropriated the sum of P2,000 to defray the cost of printing circulars in the interest of a campaign to restore peace and order and to increase the production of agricultural crops (Annex D).

Upon being informed of the suppression of the said positions, the provincial fiscal of Pangasinan sent a communication to the Secretary of Justice calling attention thereto and to the fact that the provincial fiscal[^] the

three assistant fiscals, and the special prosecutor in the province would not be able to handle all the cases pending before the Courts of First Instance holding sessions within the province. He asked that steps be taken with the Secretary of Finance to have the resolution in question disapproved (Annex 1, attached to the letter to the Secretary of Finance). Pursuant to the communication of the provincial fiscal, the Secretary of Finance on February 15, 1952, disapproved the said Resolution No. 55. His letter of disapproval is as follows: Gentlemen:

This refers to your current Resolution No. 55 abolishing the three positions of Special Counsel at P3600 per annum each in the Office of the Provincial Fiscal, fund for which having been provided in the current fiscal year annual general fund budget. Under the provisions of section 1686 of the Administrative Code, said positions are of temporary character and may be abolished upon the termination of the specific cases assigned to their incumbents. In view, however, of the statement contained in the letter of the Provincial Fiscal dated February 2, 1952, to the Honorable, the Secretary of Justice who forwarded it to this Department, to the effect that the services of said officers are still needed to attend to the numerous cases still pending adjudication in the seven courts of that province, the abolition of said positions can not be given favorable consideration.

Respectfully,

Sgd.) AURELIO MONTINOLA
Secretary

The issue squarely presented before us, therefore, is: Does Resolution No. 55 require the approval of the Secretary of Finance in order to have force and effect? The respondents contend that such approval is necessary, as the resolution in question affects the appropriation of the Province of Pangasinan, which is expressly placed under the Secretary of Finance for approval.

The starting point from which the question may be considered is article VII, section 10, of the Constitution of the Philippines, sub-paragraph (1) of which provides as follows:

(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.

It might be helpful to recall that under the Jones Law the Governor General had both control and supervision over all local governments. (Section 22, Jones Law.) The evident aim of the members of the Constitutional Convention in introducing the change, therefore, must have been to free local governments from the control exercised by the central government, merely allowing the latter supervision over them. But this supervisory jurisdiction is not unlimited; it is to be exercised "as may be provided by law."

At the time of the adoption of the Constitution, provincial governments had been in existence for over thirty years, and their relations with the central government had already been defined by law. Provincial governments were organized in the Philippines way back in the year 1901 upon the approval of Act No. 82 by the Philippine Commission on January 31, 1901. The policy enjoined by the President of the United States in his Instructions to the Philippine Commission was for the insular government to have "only supervision and control over local governments as may be necessary to secure and enforce faithful and efficient administration by local officers." (McKinley, Instructions to the Philippine Commission, April 7, 1900.) The aim of the policy was to enable the Filipinos to acquire experience in the art of self-government, with the end in view of later allowing them to assume complete management and control of the administration of their local affairs. This policy is the one now embodied in the above-quoted provision of the Constitution.

With the above background in mind, we shall now proceed to examine the nature of the relationship between the Secretary of Finance, as head of an executive department, and the provincial governments. The following

provisions of law have some bearing with the disputed power of the provincial board.

SEC. 2106. Powers to be exercised with approval of Department Head.—Upon approval by the Department Head of the particular resolution by which such action shall be taken, the provincial boards of the respective provinces shall have authority:

(a) To appropriate money for purposes not specified by law, having in view the general welfare of the province and its inhabitants. (Revised Administrative Code, as amended up to June 17, 1950.)

SEC. 2120. Estimate of revenues and receipts for current year— Annual provincial budget.—Immediately upon receipt of the statement of receipts and expenditures from the provincial treasurer, the provincial board will make a careful estimate of the revenues and receipts for the current year. Upon the basis of such estimated income the provincial board will, likewise, make detailed appropriations covering the estimated expenditures for the year, but in no case shall such appropriations be in excess of the estimated revenues and receipts. The statement of receipts and expenditures for the preceding year, together with the estimates and appropriations by the provincial board for the current year, shall be known as the annual provincial budget. Changes in the estimates and appropriations may be made by the provincial board from time to time during the year by supplemental budgets: Provided, That no changes shall be made to appropriations made for health without first consulting the chief of the sanitary division. (Ibid.)

SEC. 1. The powers and administrative supervision heretofore exercised by the Secretary of the Interior over the assessment of real property, appropriation, and other financial affairs of the provincial, municipal and city governments and over the offices of provincial, municipal and city Treasurers and provincial and city assessors are hereby transferred to the Secretary of Finance. (Commonwealth Act No. 78.)

Our attention has also been called to the following provisions of Executive Order No. 167 dated October 8, 1938:

SEC. 2. The Department of Finance is the agency of the National Government for the supervision and control of the financial affairs of the provincial, city, and municipal governments.

SEC. 3. In conformity with the foregoing, the budgets of the provincial governments shall be submitted to the Department of Finance, through the Department of the Interior, such budgets to contain the plantilla of personnel in such details as heretofore prescribed and clear and specific statements both of the estimated income and the proposed expenditures for the corresponding fiscal year. In thus submitting the budget, the provincial board should enclose a written opinion of the provincial treasurer as prescribed in section Two thousand one hundred seven of the Administrative Code, together with a statement of the district engineer containing his comments on the proposed expenditures for his office as well as for public works, and also similar written statements of the division superintendent of schools, the district health officer, the provincial auditor, the provincial fiscal, and the provincial agricultural supervisor regarding the different kinds of proposed expenditures for the activities respectively under them. The budget with all the accompanying statements shall be sent to the Department of Interior, which should make its comment on the proposed expenditures. The Secretary of the Interior shall then send the budget with his comment and recommendation together with the corresponding opinion and statements of the chiefs of local offices to the Department of Finance, in taking action on the budget, shall be guided by the comment and recommendation of the Secretary of the Interior.

The same procedure shall be observed in the case of supplemental budgets. and to Executive Order No. 383 dated December 20, 1950, which transfers the supervision and control of the personnel and finances of the provincial governments from the Secretary of the Interior to the Secretary of Finance.

It is on the strength of the above provisions, asserting that the abolition of the positions of the three special counsel in the province of Pangasinan affects' the financial affairs of the province, that respondents rest their claim of the alleged power of the Secretary of Finance to disapprove Resolution No. 55.

We must state frankly at the outset that the use of the word "control" in Executive Order No. 167 finds no support of jurisdiction either in the Constitution (which grants the President only powers of general supervision over local governments), or in any provision of the law. Any effect or interpretation given to said executive order premised on the use of the word "control" therein would be of doubtful validity. That the word was intended not to be given full force or effect is apparent from the directive contained in Section 9 of the executive order, which provides:

SEC. 9. In revising the budgets of local governments and in passing over the expenditures made by such entities, the Department of the Interior and the Department of Finance shall be guided by the principle that provided that the expenses contemplated are within their financial capacity, the local government should be given a large degree of freedom in determining for themselves the propriety and wisdom of the expenses that they make.

Is the suppression of the position of three special counsel a financial matter falling under the supervisory power of the Secretary of Finance over provincial governments? Whether or not funds are available to pay for a newly created position is evidently a financial matter; but the suppression of positions is not a financial matter. The problem before the provincial board was, should not the services of the three special counsel be stopped and the funds¹ appropriated for them used for other services? This is not a financial matter. It is so only in the sense that the sum appropriated for the abolished positions reverts to the general funds to be thereafter appropriated again as the provincial board may provide. Were we to consider all changes in the purposes of appropriations as financial matters, because they may have relation to the annual appropriations, there would be no form of activity involving the expenditure of money that would not fall within the power of the Secretary of Finance to approve or disapprove. Such an interpretation can not be held to be within the intendment of the executive order on the approval of the budget of the provincial board.

Having arrived at the conclusion that the suppression of the positions of three special counsel is not a financial matter, subject to the approval of the Secretary of Finance, we now proceed to examine the issue from another angle, i.e., whether the Secretary of Finance, as an alter ego of the President of the Philippines, may not have the authority to disapprove the resolution in question under the general supervisory authority given to the President of the Philippines in sub-paragraph (1), section 10, of the Constitution. The supervisory authority of the President is limited by the phrase "as provided for by law;" but there is no law in accordance with which said authority is to be exercised. The authority must be exercised, therefore, in accord with general principles (of law).

"To supervise" is to oversee, to have oversight of, to superintend the execution of or the performance of a thing, or the movements or work of a person; to inspect with authority; to inspect and direct the work of others. (*Fluet vs. McCabe*, Mass., 12 N. E. 2d 89, 93.) It is to be noted that there are two senses in which the term "supervision" has been understood. In one, it means superintending alone or the oversight of the performance of a thing, without power to control or to direct. In the other, the inspection is coupled with the right to direct or even to annul. The decisions of courts in the United States distinguish between supervision exercised by an official of a department over subordinates of that department, and supervision for the purpose only of prevention and punishing abuses, discrimination's, and so forth. Thus, in the case of *Aull vs. City of Lexington*, 18 Mo. 401, 402, where a board of health was given supervision over the health of the city, it was held that said power of supervision should be understood as embracing the power of advising measures necessary for the preservation of health. In *Vantongerren vs. Hefferman*, 38 N. W. 52, 55-56, where a secretary of the interior is given general supervision over all public business relating to public lands, it was held that the said secretary, acting through a commissioner, has the power to review all acts of local officers or to direct and correct any errors committed by them. It was said that any less power than this would make the supervision an idle act, a mere overlooking without any power of correction or suggestion. In the case of *State vs. Fremont, E. & M.V.R. Co.*, 35 N. W. 118, 124, a railroad board which is granted the power of inspecting and superintending railways was understood to have the power to prevent unjust

discriminations against persons and places and to prevent and punish abuses, etc.

The Secretary of Finance is an official of the central government, not of provincial governments, which are distinct and separate. If any power of general supervision is given him over local governments, certainly it can not be understood to mean or to include the right to direct action or even to control action, as in cases of school superintendents or supervisors within their respective districts. Such power (of general supervision) may include correction of violations of law, or of gross errors-, abuses, offenses, or maladministration. Unless the acts of local officials or provincial governments constitute maladministration, or an abuse or violation of a law, the power of general supervision can not be exercised. In synthesis, we hold that the power of general supervision granted the President, in the absence of any express provision of law, may not generally be interpreted to mean that he, or his alter ego, the Secretary of Finance, may direct the form and manner in which local officials shall perform or comply with their duties.

The act of the provincial board in suppressing the positions of three special counsel not being contrary to law, or an act of maladministration, nor an act of abuse, the same may not be disapproved by the Secretary of Finance acting as a representative of the President by virtue of the latter's power of general supervision over local governments. For a provincial board to determine that other services are more necessary than the services of three special counsel in the province, or that the funds appropriated for the three special counsel may be more profitably used in other activities or services, is no violation of law, and neither does it constitute an abuse of discretion or abuse of power. If the Legislature had thought it convenient or necessary that the services of three additional counsel are to be utilized in the province to handle the prosecution of many pending cases before the courts holding sessions in the province, it should have inserted said positions in the law.

We do not lose sight of the fact that the disapproval of the resolution by the Secretary of Finance was based on the objection thereto of the provincial fiscal, who had certified that the services of said special counsel were necessary in order to cope with the big number of criminal cases pending before the Courts of First Instance holding sessions in the province. The need of the services of said counsel may have been paramount; the objection thereto of the provincial fiscal, we admit, is of great weight. However, the question before us is not one of necessity or usefulness, but exclusively one of authority or prerogative. It is the provincial board that created the positions of the special counsel; it is its consequent prerogative to abolish the positions in the exercise of its discretion. We do not deny that political motives may have induced the suppression; but neither can we deny that the same motives may have induced their creation. Be that as it may, as the need for the positions is, in the very natural order of things, within the competence or prerogative of the provincial board to determine, the provincial fiscal should have appealed to the provincial board to retain the positions, instead of seeking the disapproval of the board's resolution by the Secretary of Finance, on the ground that it involves a financial matter. We are not prepared to declare that in accordance with general principles the action of the provincial board is an abuse of the power and discretion lodged in it by existing law, subject to disapproval by higher authority under its power of general supervision.

For the foregoing considerations, the writ prayed for is hereby granted, and the act of the Secretary of Finance in disapproving Resolution No. 55 of the provincial board of Pangasinan is hereby declared to be of no force and effect; the three positions of special counsel in the office of the provincial fiscal of Pangasinan are hereby declared vacant from the date of the promulgation of this decision, and the respondents Jose D. Parayno, Alejandro de Guzman, Jr., and Victoriano Gayagoy are prohibited from performing the functions pertaining, or receiving the emoluments attached, thereto; and the provincial treasurer and provincial auditor are ordered to desist from paying and auditing the salaries of said respondents from the date of the promulgation of this decision.

Paras, C. J., Pablo, Bengzon, Reyes, Jugo, Bautista Angelo, and Concepcion, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.