

philippine studies

Ateneo de Manila University · Loyola Heights, Quezon City · 1108 Philippines

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Philippine Studies vol. 14, no. 3 (1966): 448–459

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Fri June 27 13:30:20 2008

The Jones Act and the Establishment of a Filipino Government, 1916-1921

MICHAEL P. ONORATO

FIFTY years ago, this August 29, an elated Filipino watched President Woodrow Wilson sign into law the second organic act of the Philippines. As the newsreel cameras and photographers recorded for posterity the signing of the Jones Act, Manuel L. Quezon's mind must have wandered back over the years of bitter acrimony, long hours of debate, thousands of miles travelled in an effort to win support for the Philippine cause, and hundreds of cipher cables that flowed between him and Sergio Osmeña prior to its enactment by Congress. Maybe, in that moment of triumph he shut out the years of frustration. But whatever he was thinking at that historic hour, he must have reflected, for even a moment, on the alternations that this measure would cause in the relationship of the Philippines to the United States. The Filipino people were given a degree of autonomy that would exceed the wildest dreams of the subject peoples elsewhere in South and Southeast Asia.

It is not my purpose here to examine the history of the Jones Act nor to detail its many provisions.¹ Nor is it desirable here to discuss the history of the Philippines under the second organic act. Rather, my purpose is to look at certain

¹ For the most recent study of the Jones Act, see Roy W. Curry, *Woodrow Wilson and Far Eastern Policy, 1913-1921* (New York: Book-

features of the Jones Act and the new government that was established by the Filipino leadership as a result of it.

1

On August 29, 1916, the second organic act—the Jones Act as it is more commonly known after its principal sponsor Representative William Atkinson Jones of Virginia—became law. The object of the measure was to replace the commission government, which had governed the Philippines, since 1901, with one that put more responsibility in the hands of the Filipino people.

The three key provisions of the Jones Act were articles 19, 21 and 22. Article 19 gave the governor general the right to veto any measure of the Legislature. (Congress had retained the power to annul any act of the Philippine Legislature irrespective of the wishes of the people, their leaders, the governor general, or the president of the United States.) During the administration of Governor General Wood, the Filipino leaders would argue that the veto power fell into four categories: those bills which were clearly unconstitutional, those which violated any treaty of the United States with a foreign power, those which were directed against aliens residing in the Philippines, and those which attempted to subvert American sovereignty over the Philippine Islands.² Naturally, Washington never accepted this thesis. And whenever the Filipino leaders were forced to admit that the governor general could veto any measure, they usually argued that the “spirit of the law,” the Jones Act, precluded any extensive use of the veto power. (The Legislature could over-ride the executive veto whereupon if it was vetoed a second time and re-passed a

man Associates, 1957), pp. 82-96. For the best Filipino study, see Maximino M. Kalaw, *The Case for the Filipinos* (New York: The Century Co., 1916).

² Jorge C. Bocobo, *General Wood and the Law: A Discussion of the Legal Aspect of the Political Crisis in the Philippine Islands* (Manila: Bureau of Printing, 1923), p. 59. According to Francis Burton Harrison, the governor general could veto all acts of the legislature. See *The Cornerstone of Philippine Independence: A Narrative of Seven Years* (New York: The Century Co., 1922), p. 203.

third time, the measure would then be sent to the president of the United States. In his case, the veto would be absolute.) To strengthen their case, they invariably mentioned Francis Burton Harrison who vetoed only five bills.³ But what they did not mention was that he had been attacked for vetoing those measures. Thus he hesitated from exercising his prerogative.⁴

Article 21 gave the Legislature the right to alter the duties and size of the existing cabinet (under the commission government). It also placed the department heads (cabinet officers) directly under the authority of the governor general. He was to have "general supervision and control of all of the departments of the government."⁵ Later, the Filipinos were to claim that the right to alter the duties of the cabinet made the Legislature, indirectly, at least, an interested party to the functions of the executive branch of the government. They also argued that the Senate's consent, which was needed for all executive appointments, gave that body a voice in the executive branch.⁶

The strongest argument advanced for interfering with the governor general's control over his department secretaries was the "spirit" of the Jones Act. According to the leaders, the intent of Congress was to place greater responsibility with the people. While this was so, the intent of Article 21 was rather clear and unequivocal. However, in 1919, the Legislature passed Act 2803 which reduced the general supervision and control of the governor general to that of being generally responsible for overall policy. The department heads were to assume all responsibility for their actions. They would also be responsible to the Legislature.⁷

³ Maximo M. Kalaw, *The Present Government of the Philippines* (Manila :McCullough Printing Co., 1921), pp. 9-10, 12.

⁴ Maximo M. Kalaw, "Governor Wood's Vetoes, A Deathblow to Our Autonomy," *Philippine Herald* (Manila), March 19, 1922, p. 7.

⁵ Bureau of Insular Affairs, *Acts of Congress and Treaties pertaining to the Philippine Islands in force and effect July 1, 1919* (Washington: Government Printing Office, 1920), p. 43.

⁶ Kalaw, *Present Government*, pp. 15-21, 40-41.

⁷ Bocobo, pp. 39, 42-43; Dean C. Worcester and J. Ralston Hayden.

Later, when Governor General Wood refused to consider his cabinet responsible to the Legislature, the leaders argued that he must obey Act 2803 until it was declared unconstitutional. When he argued that the Legislature could not enact such a measure, they said that since Congress had not voided the act it must be considered legal until the courts decided otherwise. Needless to say, Washington sustained the governor general.⁸ In 1927, the Philippine Supreme Court would declare Act 2803 unconstitutional because it deprived the chief executive of his power to exercise his authority under the Jones Act.⁹

Article 22 placed all executive functions under the control of the governor general. He, and those under his direct control, were to execute the laws of the land. In August, 1916, Secretary of War Newton D. Baker, in transmitting the Jones Act to Governor General Harrison, warned him, among other things, that this provision of the act was designed to prevent legislative encroachment on the functions of the executive.¹⁰ By 1921, however, the Philippine Legislature, with Harrison's acquiescence, had encroached upon the duties and functions of the governor general. The Philippine Supreme Court was to rule in 1927 that no branch of government may exercise its power in any other manner than prescribed by the organic act.¹¹

The Philippines Past and Present (New York: Macmillan Co., 1930), pp. 738-740.

⁸Raymond L. Buell, "What about the Philippines?," *Atlantic Monthly*, 133 (March, 1924), p. 327; General McIntyre to Leonard Wood, Strictly Confidential, October 6, 1923, *Papers of Leonard Wood* (Manuscript Division, Library of Congress, Washington, D.C.), Box 168; Memorandum to Secretary of War Weeks, October 22, 1923, *Papers of Calvin Coolidge* (Manuscripts Division, Library of Congress, Washington, D.C.). For the Filipino viewpoint, see Bocobo, pp. 9-12, 27-28.

⁹"Decision of the Philippine Supreme Court, No. 26979, April 1, 1927, The Government of the Philippine Islands, plaintiff v. Milton E. Springer, Dalmacio Costas, and Anselmo Hilario, defendants," *Official Gazette*, 25 (May 10, 1927), pp. 1232-1233.

¹⁰Harrison, p. 209; Newton D. Baker to Francis Burton Harrison, August 18, 1916, *Congressional Record*, 67, pt. 2 (December 22, 1925), 1381.

¹¹"Philippine Supreme Court," p. 1232.

These three key provisions gave the governor general more power than he had under the commission government. Under that government he had no veto power, had to struggle with his colleagues on the commission, and, in general, was often placed in a difficult position owing to his dual role as president of the commission and chief executive of the Philippine government. Now the executive branch was under the governor general. Yet, despite these provisions, the power of the Legislature to vote the budget, the ability of the Senate to withhold confirmation of executive appointments, and the fact that the Filipino people had reached a sufficient state of political sophistication made arbitrary rule by the governor general impossible. It was constitutionally beyond the power of any governor general to exercise authoritarian rule.

2

Since 1916, efforts have been made by several authors to show that the Jones Act, with its three distinct branches of government, was repugnant to the political and historical heritage of the Filipino people. Each tries to prove that Sergio Osmeña, in particular, favored the parliamentary form of government; that he, and others, reluctantly accepted the American form of government. Everyone argues that the second organic act was bound to create trouble: an appointive chief executive who was not responsible to the people and an elective legislature which was capable of harassing the governor general. (One might say that any form of government which included an American as governor general would run into trouble at some time or other.) These writers assert that the Filipino leadership wanted a parliamentary type of government since the early days of the American occupation. Therefore, the subsequent action of the leaders to alter the form of government (which was provided by the Jones Act) without reference to Congress was inevitable. Some consider the actions of the Filipinos illegal, but understandable. Others regard anything that was done as perfectly all right. Variations on the basic thesis that the Jones Act was unsuited to Filipino traditions goes on *ad infinitum*.¹²

¹² John H. Romani, *The Philippine Presidency* (Manila: Institute

The question that remains is why the Filipino leaders should have accepted the Jones Act, if they were enamored, as we are told, with parliamentary government. The files of Manuel L. Quezon (in the National Library, Manila) are still silent on this point. The papers of other men associated with the Jones Act offer no clue. Perhaps, someday the rationale behind the acceptance of the American form of government will be explained adequately.

3

On October 16, 1916, the new bicameral legislature was convened. Osmeña was chosen speaker of the House of Representatives, while Quezon was elected president of the Senate. Their new roles, together with their positions as president and vice-president of the Nacionalista party respectively, enabled them to assume virtual direction for the actions of their countrymen in all branches of the government. In 1921, Maximo M. Kalaw wrote that they were the most powerful legislative heads in the world. By that time, the governor general by Philippine legislation was constrained to seek their permission before certain measures could be executed.¹³

In November, 1916, the cabinet was expanded from five to six members. There were now five Filipinos and one American department head. The lone American was also the vice-governor. He held the portfolio of Public Instruction because of a provision in the Jones Act.

In an effort to control the cabinet, the Legislature passed a law permitting the legislators to summon cabinet members before them. However, cabinet members were given the right

of Pacific Relations, 1956), pp. 1-2, 16; O. Garfield Jones, "Playing Fair with the Filipinos," *Asia*, 21 (March, 1921), p. 245; "General Wood Plays Mussolini," *The Nation*, 123 (December 1, 1926), p. 551; Kalaw, *Present Government*, pp. 26-28, 121-123; Harrison, pp. 202-205; J. Ralston Hayden, *The Philippines, A Study in National Development* (New York: Macmillan Co., 1950), p. 409; Henry Cabot Lodge, Jr., "Our Failure in the Philippines," *Harper's Magazine*, 160 (January, 1930), p. 212; Norbert Lyons, "What Next in the Philippines?," *North American*, 224 (September-October, 1927), p. 367.

¹³ Kalaw, *Present Government*, pp. 53-56.

to speak from the floor of the Legislature. This was the first step taken to establish a Filipino government by local legislation.¹⁴

On December 22, 1916, a caucus of the Nacionalista legislators urged Speaker Osmeña to accept Harrison's offer to appoint him secretary of the Interior. As this was the most important position in the cabinet, Osmeña was pressed to accept it. The legislators argued that since he was the leader of the House of Representatives, he was in a position to offer "responsible leadership" to the nation. Osmeña, however, refused the offer on the grounds that it would be unfair to have the president of the majority party in the cabinet. Moreover, the House of Representatives might feel bound to follow the policy of its former speaker, while the Senate would feel slighted because it had no representation in the cabinet. Besides, he asserted, no one knew what executive power the governor general would give the secretary of the Interior.

In spite of this self-effacing, Sergio Osmeña wanted very much to be part of the cabinet. Throughout 1917 and in the autumn of 1918, Osmeña and Quezon strained at the constitutional barrier that prevented them from sitting with the cabinet. It was Osmeña who thought of a way by which he and Quezon could both enter the cabinet on terms of equality, as well as constitutionally. On October 16, 1917, Governor General Harrison accepted the concept of a Council of State which would coordinate the activities of the executive and legislative branches. A year later, he created through an executive order the Council of State, which, according to Maximo M. Kalaw, was merely an enlarged cabinet. But while it satisfied the political leaders, Harrison let it be known that he would not permit them to make that body a permanent institution. He did not want to tie the hands of his successor.¹⁵

Theoretically, the Council of State (which was composed of the governor general, the speaker of the House, the presid-

¹⁴ Harrison, pp. 204-206, 210-213; Worcester and Hayden, pp. 738-740.

¹⁵ Harrison, pp. 204-213; Kalaw, *Present Government*, pp. 28-29, 55-56.

ent of the Senate, and the six department heads) was supposed to be a clearing house for both branches of government. Such a need had been recognized by those in the Philippine government. Under the commission government, the governors general frequently sought the advice of the legislative leaders. Because of his unique position as speaker of the Assembly, and later the House of Representatives, as well as president of the majority party in the Legislature, Osmeña's advice was sought before many measures were sent to the legislators. Now, he was part of the executive branch. The Council of State, was a distinct step forward.¹⁶ Harrison's successor, Leonard Wood, retained the Council because he considered it a useful organization.¹⁷ After the cabinet crisis of July, 1923, the Council died a natural death when the two legislative leaders refused to return to the Council's deliberations. When Henry L. Stimson restored the Council of State in 1928, he did so without restoring the power it had under the previous two administrations. Under Stimson and his successors, the Council would be a hollow shell of its former self. The Council of State was reduced to an advisory capacity.

As time went on, Osmeña and Quezon used their new positions to erode the executive powers of the governor general. In this endeavor, they were aided by Harrison, who chose to ignore the admonitions of Secretary of War Baker. Why he did so is usually ascribed to his liberal character. There is room for further analysis of Harrison's role in the Philippines.

By 1921, there were over sixty acts passed by the Philippine Legislature that insured the primacy of the Council of State in the functioning of the government. In some, the expressed approval of both legislative heads was required before the governor general could execute certain laws, especially those dealing with public works. Although these violated the Jones Act, Harrison declined to veto them.¹⁸ In 1927, the Philippine

¹⁶ George A. Malcolm, *The Commonwealth of the Philippines* (New York: D. Appleton-Century Co., 1936), p. 83; Kalaw, *Present Government*, pp. 29-32.

¹⁷ Wood to Secretary of War John W. Weeks, November 1, 1921, *Wood Papers*, Box 158.

¹⁸ Worcester and Hayden, pp. 738-743.

Supreme Court would point out that any act which was designed to limit the powers of the chief executive was illegal.¹⁹

The crowning achievement of the leaders was Act 2803 which was passed in 1919. We have already discussed certain of its provisions as they affected Article 21 of the Jones Act. Act 2803 also provided that the governor general, except for emergencies, had to submit any executive order, proclamation or regulation, to the proper department secretary for his approval before issuing the decree.²⁰ The Legislature had reduced the chief executive to the status of a figure-head. However, Harrison tells us in his book that he would have to remind his department secretaries that the Jones Act placed full authority with the governor general.²¹ How he rationalized his acceptance of Act 2803 with his own admonition to his cabinet must await further examination by interested scholars.

To complete this short review of the Filipino government which was created by local legislation, the Board of Control must be mentioned. Prior to the First World War, the Philippine government owned several small enterprises that were efficiently run and, in general, did not compete with any existing private interests in the Philippines.²² During the war, however, the government, according to Maximo M. Kalaw, became paternalistic. It undertook four major enterprises—the Manila Railroad, the National Coal Company, the National Development Company, and the Philippine National Bank. The motives for doing so were the very best—conservation of natural resources, protection from exploitation, prevention of wartime profiteering, and easy credit facilities for Filipino businessmen.²³

¹⁹ "Philippine Supreme Court," p. 1232.

²⁰ Kalaw, *Present Government*, pp. 32-33.

²¹ Harrison, p. 209.

²² Jose P. Apostol, *The Economic Policy of the Philippine Government: Ownership and Operation of the Business* (Manila: University of the Philippines, 1927), pp. 4-10.

²³ Kalaw, *Present Government*, pp. 109-110; Apostol, pp. 24-32; *Beautiful Philippines: A Handbook of General Information* (Manila: Bureau of Printing, 1923), pp. 187-188.

In time, these businesses fell under political control. To ensure their control over these, and the several other government enterprises, the political leaders created the Board of Control. It was composed of the governor general, the speaker of the House, and the president of the Senate. The function of the Board was to vote the government-owned stock held in these enterprises.²⁴

After Leonard Wood became governor general, the Board Control found itself immersed in a power struggle between him and the leaders on the one hand and between Quezon and Osmeña on the other. After Osmeña entered the Senate, Manuel Roxas, as speaker of the House, joined the Board. Between 1921 and 1923, the Board usually found itself in agreement concerning the government enterprises—even to their sale. But when time came to sell the government businesses, the Filipino board members would urge the governor general to wait for a more propitious time or more favorable offer. By 1926, Wood was tired of the procrastination of Quezon and Roxas which he felt was dictated more out of political considerations than from any basic disagreement with the principle of the government getting out of business. In November, 1926, he abolished the Board of Control on the grounds that the Legislature had encroached on the functions of the chief executive by forcing him to share his duties with the legislative heads. He argued that since the government controlled these enterprises through its ownership of the majority stock, only the governor general could vote the stock. The Philippine Supreme Court, as later did the United States Supreme Court, upheld Wood.²⁵ It was a triumph that left a residue of bitterness.

²⁴ Stephen P. Duggan, "The Future of the Philippines," *Foreign Affairs*, V (October, 1926), 120; Walter Robb, "Wood Facing His Task," *Outlook*, 129 (November 30, 1921), p. 513. Although the government owned the majority stock, the public was encouraged to invest in the government enterprises.

²⁵ "Philippine Supreme Court," pp. 1231-1232. For an examination of Wood's efforts to work with the Board of Control, see this writer's forthcoming article in the August number of *Asian Studies* (Manila). After the cabinet controversy of 1923, the papers in the Wood collec-

By 1921, the Filipino leaders had created a government that was their own. By local legislation, as well as the acquiescence of the governor general and the pre-occupation of the American Congress elsewhere, they had succeeded in advancing their participation in government beyond the scope intended by the Jones Act. Their work had been done so well that no change of administration in Washington, no governor general, no Congress could ever turn the clock back.

The administration of Warren G. Harding understood that the course of Philippine autonomy charted by the Wilson administration could not be altered. The oft-cited promise by Harding of "no backward step" merely verbalized what every leader—American or Filipino—knew. No succeeding president contemplated any challenge to existing Filipino autonomy.

When he became governor general, Leonard Wood informed Washington that he would not ask for congressional action to remedy the situation regarding Philippine legislative encroachment on the powers of the chief executive. Instead he would work within the limitations of those acts until such time as he found it impossible to do so.²⁶ His abolition of the Board of Control after working with it for five years was an example of his willingness to work with the government established by the Filipino leaders.

To speak of Leonard Wood, or even the Republicans in Washington, arresting filipinization, halting the progressive work started by Francis Burton Harrison, or attempting to rule by the "letter" of the Jones Act rather than by its "spirit" is to shackle oneself to a stereotyped viewpoint that is four decades old. To view the Wood era, as well as the refusal of the several Republican administrations to grant *total* Filipino self-

tion point to his concern over the use of the Board for partisan politics. Between 1924 and 1926, Wood sought to find a solution other than abolition of the Board of Control.

²⁶ Wood to Secretary of War John W. Weeks, November 1, 1921; *loc. cit.*

government (a Filipino governor general and vice-governor), in the context of the near collapse of the Philippine National Bank in 1920-21, together with the political, social and fiscal excesses of the "New Era," is to understand why Leonard Wood could not follow without some hesitancy the path cut by Harrison between 1916 and 1921.

But if we cannot speak of Wood's halting the progress of Filipino autonomy, we also cannot speak of the achievements of the twenties as his alone. Whatever was accomplished during those years was done by Filipinos. Quezon's cry that "he'd rather have a Hell run by Filipinos, than a Heaven run by Americans" which he hurled at Wood stirred the blood of his countrymen. But Quezon, if anyone, knew that the Filipinos ran their own government. As Sergio Osmeña said on December 7, 1923: "Our system of government is ours, truly ours, products of our policies and of the progressive evolution of the institutions of our country, the natural outgrowth of our achievements in self-government."²⁷

As Manuel L. Quezon watched Woodrow Wilson sign the Jones Act, he must have known that the years that would follow would be just an interlude before independence was granted. The fact that Philippine freedom did not occur sooner must be laid at the doorstep of politics: American and Filipino. August 29, 1916 heralded the beginning of the end.

²⁷ *The Constitutional Development of Philippine Autonomy. Address by Senator Sergio Osmeña before the Philippine Barristers of the University of the Philippines on December 7, 1923* (Manila: Bureau of Printing, 1924), p. 11.