

REPUBLIC ACT NO. 6713

8TH CP 1987-1992

AN ACT ESTABLISHING ETHICAL STANDARDS FOR ALL PUBLIC OFFICERS AND PROVIDING PENALTIES
FOR VIOLATIONS THEREOF

TABLE OF CONTENTS

I. **BILLS INFORMATION :**

LEGISLATIVE HISTORY OF SENATE BILL NOS. 104, 3, 139

SENATE BILL NOS. 139, 3, 104, 25

COMMITTEE REPORT NOS. 32, 34, 38

CONFERENCE COMMITTEE REPORT

REPUBLIC ACT NO. 6713

II. **COMMITTEE DELIBERATIONS :**

COMMITTEE ON ETHICS AND PRIVILEGES.:

SEPTEMBER 23, 1987

SEPTEMBER 30, 1987

OCTOBER 5, 1987

FEBRUARY 2, 1988

MAY 5, 1988

AUGUST 19, 1988

III. **PLENARY DEBATES/DELIBERATIONS /RECORDS OF THE SENATE :**

OCTOBER 13, 1987

OCTOBER 14, 1987

OCTOBER 15, 1987

OCTOBER 23, 1987

OCTOBER 21, 1988

IV. **BICAMERAL COMMITTEE MEETINGS:**

AUGUST 11, 1988

It makes no sense, Mr. President, if we were not to delete that.

The President. The Chair would like to ask: Why not "in accordance with ITS LAWS AND WITH THE LAWS OF THE PHILIPPINES"? They need not be "ELECTION" laws.

Senator Laurel. Agreeable, Mr. President.

The President. All right. What is the pleasure of the Sponsor?

Senator Guingona. Yes, Mr. President.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

So we strike out the words "the residence requirement provided for in the election laws" found on lines 27 and 28.

All right, we go to page 11. Any proposed amendment? I suppose we will have to change the numbering again on line 22.

Senator Guingona. Yes, Mr. President.

The President. It will be "SEC. 9" instead of "SEC. 8." Is there any objection? [Silence] Hearing none, the same is approved.

Is there any further amendment on page 11? On page 12, is there any proposed amendment?

Senator Guingona. Just the numbering, Mr. President.

The President. On what line?

Senator Guingona. On line 11, Section 10, and on line 16, "SEC. 11."

The President. Is there any objection to the numbering? [Silence] Hearing none, the same is approved.

APPROVAL OF SENATE BILL NO. 11
ON SECOND READING

Senator Mercado. Mr. President, if there are no other amendments, I move that we approve Senate Bill No. 11, as amended, on Second Reading.

The President. The Senate will now vote on the bill as amended on Second Reading.

As many as are in favor of the bill, as amended, will please say *Aye*. [Several Senators: *Aye*]

As many as are against will please say *Nay*. [Silence.]

Senate Bill No. 11, as amended, is approved on Second Reading.

BILL ON SECOND READING
Senate Bill No. 139 – Ethical Standards for
Public Officers.

Senator Mercado. Mr. President, I move that we consider Senate Bill No. 139.

In this connection, I move that, together with Committee Report No. 32, we jointly consider Committee Report No. 34, submitted by the Committee on Ethics and Privileges; and Committee Report No. 38, submitted by the Committee on Civil Service and Government Reorganization, considering that the said Committees recommended that Senate Bill No. 139 be approved in substitution of Senate Bill No. 3 and Senate Bill No. 104.

The President. Consideration of Senate Bill No. 139 is now in order. The Secretary will please read the title only of the bill, without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 139, entitled:
AN ACT ESTABLISHING ETHICAL STANDARDS
FOR ALL PUBLIC OFFICERS AND PROVID-
ING PENALTIES FOR VIOLATIONS THERE-
OF

[The following is the whole text of the bill.]

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Title*. – This Act shall be known as the "Ethical Standards for Public Officers Act."

SEC. 2. *Statement of Policy.* — It is the policy of the Philippine Government to promote a high standard of ethics in public service. Public officers shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence, loyalty, efficiency, candor, openness and transparency.

SEC. 3. *Definition of Terms.* — As used in this Act, the term:

(a) "Government" includes the National Government, the local governments, government-owned or controlled corporations, and all other instrumentalities, agencies or branches of the Republic of the Philippines.

(b) "Public Officer" includes elective and appointive officials and employees, permanent or temporary, whether in the career or non-career service, including the military, receiving compensation, however nominal from the Government, and even those serving without compensation.

(c) "Gift" shall refer to a thing or a right disposed of gratuitously, or any act of liberality, in favor of another who accepts it, and shall include a simulated sale or an ostensibly one-sided disposition thereof. It shall not include an unsolicited gift of nominal or insignificant value not given in anticipation of, or in exchange for, a favor from a public officer.

(d) "Receiving any gift" includes the act of accepting, directly or indirectly, a gift from a person other than a member of his family or relative within the fourth civil degree, either by consanguinity or affinity, even on the occasion of a family celebration or national festivity like Christmas, if the value of the gift is neither nominal nor insignificant, or the gift is given in anticipation of, or in exchange for, a favor.

(e) "Loan" shall cover both simple loan and *commodatum* as well as guarantees, financing arrangements or accommodations intended to ensure its approval.

(f) "Substantial stockholder" shall mean any person who owns, directly or indirectly,

shares of stock sufficient to elect a director of a corporation. This term shall also apply to the parties to a voting thrust.

(g) "Family of public officers" shall mean their spouses and unmarried children under eighteen (18) years of age, living in the same household.

(h) "Person" includes natural and juridical persons, unless the context indicates otherwise.

(i) "Conflict of interest" arises when a public officer is a member of a board, an officer, or a substantial stockholder of a private corporation or business and the interest of such corporation or business and the interest of such corporation or business or his rights or duties therein may be opposed to or affected by the faithful performance of official duty.

SEC. 4. *Administration and Enforcement of this Act.* — The primary responsibility for the administration and enforcement of this Act shall rest upon the Ombudsman, in line with provisions of Article XI, Section 13 of the Constitution. The Ombudsman shall transmit all cases for prosecution arising from violations of any of the provisions of this Act to the Special Prosecutor for appropriate action: *Provided, however,* That the Ombudsman may institute such administrative remedies and disciplinary measures as may be warranted in accordance with law.

The Ombudsman is hereby authorized to promulgate rules and regulations necessary to carry out the provisions of this Act, including guidelines for individuals who render free voluntary service to the Government. The Ombudsman shall likewise take steps to protect citizens who denounce behavior and activities of public officers which are in violation of this Act.

SEC. 5. *Norms of Conduct of Public Officers.* — Every public officer shall observe the following as standards of personal conduct in the discharge and execution of official duties:

(a) *Commitment to Public Interest.* — Public Officers shall always uphold the public interest. Toward this end, the resources and

powers of their respective offices must be employed and used efficiently, effectively, honestly and economically. In all circumstances in which there is or might be a conflict of interest, they shall subordinate their personal interest in favor of the public welfare.

(b) *Professionalism.* — Public officers shall perform and discharge their duties with the highest degree of professionalism, intelligence and skill. They shall enter upon their respective functions in the Government with utmost dedication and earnest devotion to public service.

(c) *Justness and Sincerity.* — Public officers shall be just, sincere, honest, and impartial in their dealings with the public and their fellow public officers. They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, morals, good customs, public policy, public order, public safety and public interest. They shall not dispense or extend favors on account of their office to their relatives whether by consanguinity or affinity, except with respect to appointments of such relatives to positions considered strictly confidential.

(d) *Political Neutrality.* — Public officers shall provide service to everyone without unfair discrimination and regardless of party affiliation or preference. They shall not use the resources of Government to promote, favor or support the candidacy of an individual or the interest of any political party in any partisan political activity except where such use is necessary to secure the person of the public officer or such other similar purposes.

(e) *Reponsiveness to the Public.* — Public officers shall extend prompt, courteous, and adequate service to the public. Unless otherwise provided by law or when required by the public interest, public officers shall provide information on their policies and procedures in clear and understandable language, ensure openness of information, public consultations and hearings whenever appropriate and develop an understanding and appreciation of the socio-economic conditions prevailing in the country especially in the depressed rural and urban areas.

(f) *Nationalism.* — Public officers shall be loyal to the Republic and to the Filipino people, promote the people's preference for the use of the locally produced goods, resources and technology and encourage appreciation and pride of the Philippines and the Filipino people.

(g) *Commitment to Democracy.* — Public officers shall commit themselves to the democratic way of life and values maintaining accountability to the people through elected officials and their representatives, upholding the supremacy of civilian authority over the military, and undertaking public hearings and consultations on key political administrative decisions except in cases of national emergencies. They shall at all times uphold the Constitution and put loyalty to country above loyalty to persons or party.

(h) *Simple Living.* — Public officers and their families shall lead modest lives appropriate to their positions and income. They shall not indulge in extravagant or ostentatious display of wealth in any form. Public officers have an obligation to disclose, and the public has a right to know, a public official's asset, liabilities, net worth and financial and business interests including those of his or her spouse and of his or her unmarried children below eighteen years of age living in their household.

SEC. 6. *Prohibited Acts and Transactions.* — In addition to acts and omissions of public officers now prescribed in existing laws and the Constitution, the following shall constitute prohibited transactions of any public officer and are hereby declared to be unlawful:

(a) *Financial, Material and Pecuniary Interest.* — Public officers shall not, directly or indirectly, have any financial, material or pecuniary interest in any transaction requiring the approval of their office.

(b) *Outside Employment and Other Activities Related Thereto.* — Public officers during their incumbency shall not:

1. Accept employment as officers, employee, consultant, counsel, broker, agent, trustee or nominee in any private enterprise

regulated, supervised or licensed by their office unless expressly allowed by law;

2. Engage in the private practice of their profession unless expressly authorized by law and provided that such practice will not conflict or tend to conflict with their official functions;

3. Own, control or manage any private business or enterprise which may be affected by the functions of their office; and

4. Recommend a relative within the fourth civil degree of consanguinity or affinity, to any position in private enterprise which has a regular or pending official transaction with their office.

These prohibitions will continue to apply for a period of one (1) year after resignation, retirement, or separation from public office, except in the case of sub-paragraph (b)2, above, but the professional concerned cannot practice his profession in connection with any matter before the office he used to be with, in which case the one-year prohibition will likewise apply.

(c) *Disclosure and Missuse of Confidential Information.* — Public officers shall not use, divulge, or repeat valuable and classified information officially known to them but not made available to the public, either:

1. To further their private interests, or give undue advantage to anyone; or

2. To prejudice the public interest.

(d) *Solicitation or Acceptance of Gifts.* — Public officers shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or transaction which may be affected by the functions of, their office.

SEC. 7. *Statements and Disclosures.*

(A) *Statement of Assets and Liabilities and Financial Disclosure.* — All public officers, except those who serve without compensation, shall file under oath their Statement of Assets,

Liabilities and Net Worth and those of their spouses and unmarried children under eighteen (18) years of age living in their household, and a Disclosure of Business Interests and Financial Connections.

The two documents required under this Act shall contain information on the following:

(a) real property, its improvements, acquisition cost, assessed value and current fair market value;

(b) personal property and acquisition cost;

(c) all other assets such as investments, cash on hand or in banks, stocks, and bonds, and the like;

(d) liabilities; and

(e) all business interest and financial connections.

The two documents must be filed:

(a) within thirty (30) days upon assumption of office;

(b) on or before April 30, of every year thereafter, and

(c) within thirty (30) days after separation from the services.

Husband and wife who are both public officers may file the statements required jointly or separately.

The Statements of Assets, Liabilities and Net Worth and the Disclosure of Business Interests and Financial Connections shall be filed by:

1. Constitutional and national elective officials, with the National Office of the Ombudsman;

2. In addition, Senators and Congressmen shall file certified true copies of the same with the Secretaries of the Senate and the House, respectively.

3. All justices and judges, with the Office of the Chief Justice of the Supreme Court; and all National executive officers with the Office of the President.

4. Regional and local officials with the deputy Ombudsman in their respective regions.

5. Officers of the armed forces from the rank of colonel or naval captain, with the Office of the President, and those below said ranks, with the Military Deputy Ombudsman.

6. All other public officers as defined in Republic Act No. 3019, as amended, with their respective heads of office.

(B) *Accessibility of Documents.* — (1) Any and all statements filed under this Act, shall be made available for inspection at reasonable hours.

(2) Such statements shall be made available for copying or reproduction after ten (10) days from the time they are filed as required by law.

(3) Any person requesting a copy of a statement may be required to pay a reasonable fee to cover the cost of reproduction and mailing of such statement, as well as the cost of certification, if requested.

(4) Any statement filed under this Act shall be available to the public for a period of seven (7) years after receipt of the statement. After such period, the statement may be destroyed unless needed in an ongoing investigation.

(C) *Prohibited Act.* — It shall be unlawful for any person to obtain or use any statement filed under this Act for:

- (a) any unlawful purpose; and,
- (b) any commercial purpose other than by news and communications media for dissemination to the general public;

SEC. 8. *Divestment.* — A public officer shall avoid conflict of interest. Where such conflict of interest exists he shall resign from his position in said enterprise within thirty (30) days from his assumption of office and/or must divest himself of his shareholdings or interest within ninety (90) days from such assumption of office.

The same rule shall apply where the public officer is a partner in a partnership or, if a limited partner, has an interest, directly or indirectly, to the extent of at least twenty (20)

per cent of the capital and/or profits of the partnership.

In the case of presidential appointees in the Executive Department, except members of the Cabinet and their deputies or assistants, the President of the Philippines may, in the public interest, and after full disclosure of the conflict of interest by the officer concerned, waive the requirements of divestment. This waiver shall be in writing and shall be published immediately in the Official Gazette and in at least three (3) national newspapers of general circulation in the Philippines.

The requirement of divestment shall not apply to those who serve the Government without receiving compensation therefrom.

SEC. 9. (a) *Review and Compliance Procedure.* — The designated Committee of the House of Representatives and the designated Committee of the Senate shall establish procedures for the review of reports sent to them under Section 7 of this Act, to determine whether the statements filed have been submitted on time, are complete, and are in proper form. In the event a determination is made that a statement is not so filed, the appropriate Committee shall so inform the reporting individual and direct him to take all necessary corrective action.

(b) In order to carry out their responsibilities under this Act, the designated Committee of the House of Representatives and the designated Committee of the Senate have power, within their respective jurisdictions, to render any advisory opinion interpreting this Act, in writing, to persons covered by this Act. Notwithstanding any other provisions of law, the individual to whom a public advisory opinion is rendered in accordance with this subsection, and any other individual covered by this Act who is involved in a fact situation which is indistinguishable in all material aspects, and who, after issuance of the advisory opinion acts in good faith in accordance with the provisions and findings of such advisory opinion shall not,

as a result of such act, be subject to any sanction provided in this Act.

(c) The heads of other offices shall perform the duties stated in subsections a) and b) hereof insofar as their respective offices are concerned.

SEC. 10. *Penalties.* — (a) Any public officer or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense. Violation of Sections 5, 6, 7, or 8 of this Act shall be punished with imprisonment not exceeding five (5) years, or fine not exceeding Five thousand pesos (P5,000.00) or both, and, in the discretion of the Court of competent jurisdiction, disqualification to hold public office.

(b) Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public officer, even if no criminal prosecution is instituted against him, or is instituted unsuccessfully for failure to prove guilt beyond a reasonable doubt or due to some technicality.

Private individuals who participate, in conspiracy as co-principals, accomplices or accessories, with public officers or employees, in violation of this Act, shall be subject to the same penal liabilities as the public officers or employees and shall be tried jointly with them.

(c) The officials concerned may bring an action against any person who obtains or uses a report for any purpose prohibited by Section 7 (C) of this Act. The Court in which such action is brought may assess against such person a penalty in any amount not to exceed Twenty-five thousand pesos (P25,000.00). Such remedy shall be in addition to any other sanction hereunder or under any other law or statute.

SEC. 11. *Separability Clause.* — If any

provision of this Act or the application of such provision to any person or circumstances is declared invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

SEC. 12. *Repealing Clause.* — All laws, rules and regulations and other issuances or parts thereof which are contrary to or inconsistent with this Act are hereby repealed or modified accordingly, unless the same provide for a heavier penalty.

SEC. 13. *Effectivity.* — This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in two (2) national newspapers of general circulation.

Senator Mercado. Mr. President, I move that we recognize Senator Saguisag to sponsor the Bill.

The President. Senator Saguisag is recognized.

SPONSORSHIP BY SENATOR SAGUISAG

Senator Saguisag. Thank you, Mr. President. The three reports have already been identified in relation to this consolidated bill which the Chair principally authored.

To maintain the faith of the people in government, the State has committed itself to the philosophy and principle that public office is a public trust. In this spirit, we respectfully submit this proposal to the Body.

The consolidated bill, Senate Bill No. 139, which we are presenting, is mainly taken from Senate Bill No. 104, an ethical standards act whose principal author is the Senate President. Mine was Senate Bill No. 3, a public financial disclosure act. This is to carry out a campaign commitment of the ruling Coalition.

The Committee on Accountability of Public Officers and Investigations has earlier reported

out this bill, subject of Committee Report No. 32. Our own Committee on Ethics and Privileges has likewise acted — that is the subject of Committee Report No. 34; and so has the Committee on Civil Service and Government Reorganization. Its Committee Report is recorded as No. 38.

In keeping with our commitment earlier mentioned, pursuant to Article XI of the 1987 Constitution, the State must establish a body of rules or ethical standards to govern public behavior and performance which will help ensure that public officers are accountable at all times, serving the people with the highest degree of responsibility, integrity, competence, dedication, loyalty, efficiency, openness, and *delicadeza*. This measure sets forth such a body of ethical standards. It encompasses all public officers. Unlike the Anti-Graft and Corrupt Practices Act which is negative in approach, this bill accentuates the positive aspect of the drive for an honest, clean, and good government. It elevates the commitment to public interest, justness and fairness, political neutrality, responsiveness to the public, nationalism, commitment to democracy, and simple living as ethical principles which must be upheld by all public servants. It also imposes penalties on violations of the act. This is to serve as a constant reminder to those who may be tempted to betray the public trust, and find meaningless the truism that public service, to a greater extent, is indeed its own reward. The consolidated bill promotes the objective of public accountability at a time when the current expressions are openness, candor, transparency and, yes, *glasnost*. It carries out the relevant constitutional intent. The bill seeks to make clear the duty of public officials to make full disclosure of their acts. With this bill, we believe we can focus attention on a very important value — ethics and morality in the public service — which, seemingly, has been treated casually over the years.

We have the benefit of the work and insights of Dean Ledivina Cariño of the UP College of Administration and her colleagues. She also attended and participated actively in one of our committee hearings held last October 5. Ambassador Luis Moreno Salcedo, with his vast experience, also had a lot of useful insights.

Here are some of the highlights of our hearings, conferences and consultation on the definition of a public employee:

We decided to include those who serve the Government even without compensation. It used to be that they had to be paid even a nominal sum. But from time to time, we have been asking people in the private sector to join the Government even in an *ad hoc* capacity without pay. The intent of the bill is to apply this act to them, if it is approved.

On gifts, we decided to consider the criteria of amount, kinship, and motivation. We adopted a strict approach. Perhaps, souvenirs and tokens of courtesy during visits are allowable, as well as modest presents during birthdays, illness and retirement. Cards and spiritual bouquets should not pose any problem. We have to include even nominal gifts, so to speak, because as Dr. John Woonan tells us in his classic book *Bribes*, it is not always easy to tell a gift from a bribe. One example that came out during the hearings is that a policeman who may be getting a gift of ₱1 per trip from a jeepney driver should be covered by this law.

On the Ombudsman, he will now be all over the country, so to speak, because of the new Constitution and its provision for at least one deputy each for Luzon, Visayas, and Mindanao. The Senate, incidentally, is now poised to approve the committee report endorsing the appointment of a deputy military ombudsman. The ombudsman will be a key implementor, enforcer and monitor of this act.

On age, since there is a requirement here — that a public official has to report the assets,

liabilities, net worth, business and financial interest of minors living with the public official, we decided to lower the cut-off age to 18, and he must be living with the public official. In one of the bills now before us, it is entirely possible even for an 18-year old to be an acting mayor. If he lives separately from his parent who is a public official, it seems pointless to require his parents to include him in the reporting requirement.

On the norms — the norms of conduct expected of public officers, may perhaps be called "motherhood statements." But history has shown the powerful effect of rhetoric on human conduct.

We have to reorient values. In Japan, even the very rich and powerful people have very little houses and lots. An Israeli Premier may have a small flat to live in. We have to be austere, stoic Spartans, if possible. Hence, the emphasis on simple living.

Loyalty is something one often hears these days. What is loyalty and to whom is it owed? Public servants in the civilian and military sectors are enjoined and exhorted at all times to uphold the Constitution and put loyalty to flag and country above loyalty to persons, party, and faction.

The Congress, a distinguished institution, can help inculcate this value. To paraphrase a famous president of a world-renowned university, it is the business of a university — or a Congress for that matter — to make simple life or poverty a respectable status.

On development, to avoid conflicts of interest, there are provisions on the same. Exemptions are provided, particularly where one serves the government for free, because if there will be strict divestment requirements, many people who otherwise may be willing to serve on an *ad hoc* basis may be deterred from doing so.

On transparency, in compliance with the Constitutional mandate and in furtherance of

prior statutory requirements on the point, such as those found in the Anti-Graft and Corrupt Practices Act, we have made detailed requirements of disclosure on assets, liabilities, net worth, financial and business interests. As in the case of divestment, civil servants receiving no compensation are exempted from the requirements of filing the subject statement.

Compliance and monitoring procedures have been suggested to help ensure implementation and consistency. On the practice of one's profession, if I may recall, for instance, the distinguished Gentleman from Batangas once had to take the floor on a matter of personal privilege when he was identified at that time as the richest member of this Body. There is a need to really identify what the criterion is. Do we apply the acquisition cost, the assessed value or current fair market value for consistency?

On the the practice of one's profession, the central point and outer limits of what lawyers, who are members of Congress, can do in private practice under Section 14 of Article VI of the Constitution has been left to the panel headed by Senator Edgardo Angara to make recommendations in the first instance. We await the report of that panel.

The hope is that this bill will help effect structural, as well as attitudinal or behavioral changes; the hope is that it will help lay down the proper moral infrastructure in a long and rocky road; the hope is that it will provide a moral compass, an ethical fixed star to help us find our way.

On the procedural aspect of it, for purposes of judicial economy and to harmonize the bill, on the basis of our understanding of the pertinent precedents and existing law, private individuals who conspire with public officials and employees to violate the act will be tried jointly in the same proceedings. This will avoid needless duplication of efforts.

Approval of the bill will help strengthen the faith of our people in public authority, and we are hopeful we can achieve it. One last thought on this issue of corruption which is a very serious matter. Let us be very clear that Lord John Emerich Edward Dalberg Acton never said that "power corrupts," as if corruption were inevitable. What Bishop Mandell Creighton wrote on April 5, 1987, was: "Power tends to corrupt and absolute power corrupts absolutely."

That is all, Mr. President, and may I just remind everybody that if I am asked very tough questions here, I reserve the right to holler uncle, so to speak, because really, the paternity of this very important bill is directly traceable to the Senate President. Our contribution here really is very modest.

Thank you, Mr. President.

The President. Is there any interpellation?

Senator Laurel. Mr. President.

The President. Senator Laurel is recognized.

Senator Saguisag. Incidentally, the distinguished Gentleman from Batangas was one of the holdouts. I think we have gathered at least 20 signatures.

Senator Laurel. Thank you, Mr. President. Will the distinguished Gentleman from Pasig yield to a few questions?

Senator Saguisag. With great pleasure.

Senator Laurel. From a reading of the bill, which is a consolidation of Senate Bill Nos. 3 and 104, I understand from Section 2 of said bill that its main purpose which is an Act establishing Ethical Standards for all public officers and providing penalties for violation thereof is to promote a high standard of ethics in public service. And this declaration or statement of policy is being made or has been made, in the light of the pertinent provisions in the Consti-

tution. And I would like to refer to them as the following:

Article II, Sec. 26. The State shall guarantee equal access to opportunities for public service, and shall prohibit political dynasties as may be defined by law.

Section 27 which follows Section 26 of the same Article II:

The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.

And then follows again Section 28, which provides:

. . . the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.

And then again Section 13 paragraph 3, Article VIII, which provides that the spouse and relatives of the President within the fourth degree of consanguinity or affinity shall not be appointed to public positions, and it covers a very broad area because, unlike the provision on confirmation of appointments by the Commission on Appointments, the President may not appoint relatives even to the level of bureau directors or heads of offices, including those in government-owned or -controlled corporations.

Then we have also, Mr. President, Section 3, Article X, on local government — that the government shall provide for a more responsive and accountable government structure with effective mechanism of recall and initiative and provide for the qualifications, removal and for the duties and functions of local offices.

Then again, Section 2, Article XI on Accountability of Public Officers provides that the President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office through impeachment for bribery, graft and corruption, betrayal of public trust, and others.

And it says again in the same Section 2 of Article XI that all other public officers may be removed as provided by law, not by impeachment.

And then Section 13 of the same Article XI, provides the following powers and duties of Ombudsman: the Ombudsman shall investigate illegal, unjust, and improper acts of public officials.

He can direct any office to perform, expedite any act or duty required by law and to prevent, stop, correct any abuse of impropriety in the performance of duties.

And I would like to emphasize the next one which is number 5 among his duties: He shall determine the causes of inefficiency, red tape, mismanagement, fraud, corruption in government, and make recommendations for their elimination and observance of high standards of ethics and efficiency.

Now, my question, Mr. President, is this: Here in the bill, we have, in the light of all these provisions which I have cited, followed the principle, in particular, of transparency. And so we have placed here, "Disclosure of Financial Connection, Business Interest, Assets and Liabilities and Net Worth." Is that enough compliance — the requirement of financial disclosure and business connections — with the injunctions and mandates which I have cited and which obviously have been the basis of this bill? Is that enough compliance that we should require public officers to disclose just their financial, assets and liabilities, net worth, and business connection? May I ask the distinguished Senator?

Senator Saguisag. Well, the test of sufficiency is a little vague. It seems to me that it is a very important and substantial compliance with the constitutional mandate.

As to whether it is complete is not really for me to say. Maybe we are taking a journey of a thousand miles, and that this is just the first step.

Senator Laurel. Thank you very much. In other words, it is good enough substantial compliance, but there would be more compliance. And my question is: Does not the Senator think that we should include here a provision for the disclosure of kinship, relatives in the government because, obviously — and I would like to get confirmation from the distinguished Senator on this — relationship, employment of relatives in the government service, whether elective or appointive, is one possible or likely cause of graft and corruption in the government, and failure even to discharge effectively the duties of a public office.

Senator Saguisag. Do the relatives have to be classified whether they are assets or liabilities?

Senator Laurel. I beg the Gentleman's pardon. My question is: Does the Gentleman not think that disclosure of kinship should be included here? Obviously, that is not assets and liabilities; that is financial, which is what is included in this bill? [*Laughter.*]

Senator Saguisag. Well, I would have thought I understood the question the first time. I am not sure. I thought I was sure until I heard in an earlier exchange the point advanced by the distinguished Gentleman from Mandaluyong. I was thinking, and this I will not say really in levity, whether, for instance — and I hope no one will be offended by this rather personal example — it may make a difference to a voter whether he is voting for Lally Trinidad or for Lally Laurel Trinidad.

Again I am quite serious about this. Maybe, some of us, in thinking about the great Laurel family, may be thinking in terms of assets and liabilities. So, I am sure that in any listing, our distinguished Senator from Batangas will definitely always land, maybe at the top of the lists among the assets, but the concern here is: May it give some people an unfair advantage? Or may it subject him to an unfair disadvantage?

vantage if his comportment or if his candidacy, for instance, may have to be considered in the light of not only or his or her own merits but because of his or her kinship? Would someone vote for so and so because he is related to a great name, and not vote for somebody else because the poor fellow happens to come from a very obscure family? Or will it matter if the father of someone is a notorious criminal? Will the sin of the father be visited upon the child especially in a case where a daughter might have married and might have erased that connection at first impression?

So, what I would like to say, Mr. President, is that I have an open mind on this. If the Senate President would not mind, and the Senator from Batangas would not mind, could we have a short recess?

SUSPENSION OF THE SESSION

The President. All right. The session is suspended for a few minutes, if there is no objection. [*There was none.*]

It was 5:01 p.m.

RESUMPTION OF THE SESSION

At 5:05 p.m., the session was resumed.

Senator Laurel. Mr. President, may I just refer to a particular provision in this bill which says that public officers shall not recommend any relative within the fourth degree of consanguinity or affinity. Now, it seems difficult even to do anything about that provision if we did not know his relatives. So, I think it is very important, Mr. President, not only for that reason but for the purpose of implementing the "eye" and "look" principles stated here that we include the disclosure of relatives. It is necessary for us to include disclosure of relatives because I think that the presence of relatives is one of the causes, particularly, if pervasive, of inefficiency, mismanagement, and even graft and corruption in the government.

Here, we have also a provision to the effect that no gifts from persons shall be received. And what is the purpose of a gift? To ingratiate, Mr. President, the person giving the gift to the person receiving it or to whom it is given. In the case of a relative, he does not have to give a gift to anybody in the Government. Why? Because if he is related, he is already connected with the public officer he is seeking to ingratiate himself with.

So with that statement, Mr. President, I would like to ask the question whether the Gentleman from Pasig would be amenable to receiving proposals for an amendment when the time for amendment comes.

Thank you, Mr. President.

Senator Saguisag. We would be delighted to consider favorably an amendment along that concept, Mr. President.

Senator Laurel. Thank you very much.

The President. Is there any other interpellation?

Senator Paterno. Thank you, Mr. President.

Mr. President, I would like to congratulate the authors of this bill for introducing a statement of norms or standards of ethics which can guide the different offices of the government for the conduct of public officials. Perhaps the question I am going to propose, Mr. President, is somewhat philosophical; nevertheless, I think it deserves some consideration.

In this bill, Mr. President, we promulgate certain ethical norms and standards; we prescribe or provide certain penalties for violations in order to prevent undesirable acts. But I wonder, Mr. President, whether this bill should not contain some provisions towards the promotion of the ethical standards, not by negative means such as penalties for violations, but something positive. And I was wondering whether the Gentleman could identify some offices which

could be charged with promoting these ethical standards in the offices of Government.

Senator Saguisag. At this point, we may have to leave that to the resourcefulness and imagination of the Ombudsman. But if we can identify certain specific guidelines or standards, that should be helpful.

Senator Paterno. My problem with the Ombudsman, Mr. President, is that he is a sort of policeman. He sort of tries to catch violators. What I would like to propose is to take positive action in order that ethical standards may be promoted. I wonder, for example, whether the Civil Service Commission, the Development Academy of the Philippines, the Institute of Public Administration, and other offices of Government which are concerned with organizations, structures, mechanism, compensation, and so on, could be directed in this bill to take positive action in respect of the promotion of ethical standards so that we may have some satisfaction that these are not dead statements but rather principles which should be given some life, and we vest responsibility in certain offices of Government to try and breathe more life into these norms.

Senator Saguisag. I have long thought about that. I am not sure about the practicality. For instance, I have always been bothered by the fact that certain notorious individuals get all the publicity but not people like Captain Rosendo C. Herrera. I hope some of us will remember that name. I hope that will ring a bell with some of us. Who is he? He was a person who, twice last year, paid his income taxes in advance in the millions, because he said he believed and believes in this Government. And yet such people are not recognized enough. I can cite the instance of the policemen who were able to stop the van or the vehicle in which was supposedly loaded the great amounts that was supposed to belong to a family that has since left us. And yet

if we were to ask anybody here who were those policemen, no one might be able to answer. And I understand that there is some complaint on the part of the widow of the policeman who died in the assault of Channel 4, that he is not being recognized enough. I hope that we all remember that he was Eddie Esguerra. And what about people, let us say, in the Bureau of Customs who picked up money and returned the same to the owners? What about people in the provinces who, after doing excellent work, would be offered coffee money and would say, "Sir, we do not do that here."

And I would be really for promoting the positive part of this, although we all believe that being a good public official is its own reward; that one can sleep well at night is good psychic income in itself. I am sure that they could use more material incentives and public recognition.

I may not be prepared to propose anything specific at this point. But I am entirely in agreement with the concept that it is really time that we address and accentuate the positive, because too many good public servants go about their duties unrecognized. That is, in itself, a very beautiful concept that we should look at in more depth.

Senator Paterno. Mr. President, I say this because most of the laws that I read are really laws which anticipate that certain acts will be committed, and prescribe the penalties for those acts. I do not know, for example, Mr. President, whether the Civil Service Commission recognizes, we might say, outstanding examples of compliance with ethical standards as basis for giving pay increases way beyond the normal progression. I do not know whether there might be some ways by which we could have, for example, employees trying to select outstanding employees measured against these ethical standards. Instead of the supervisor being the one to recommend pay increases, let the employees select those people whom they hold up as models of

public official conduct. This is done very much in the private sector, Mr. President.

But unfortunately, the regulations of the Civil Service often penalize us for our mistake but do not reward us for performance. I would like to suggest that when we are prescribing ethical standards, perhaps we could consider a mechanism for positive action, in addition to the traditional penalties for violation, because we need to presume that there will be people above who will take our ethical standards seriously, and we would like to do something about them and their need for support and encouragement and recognition. I think, recognition is very important in order that we might be able to promote this. Sapagkat marami ang nagsasabi, at naririnig ko, na ugali ng Pilipino na kung kailan nasa kabaong at patay na ang isang tao ay saka lamang ito pupurihin. Perhaps we need to have some provision here, Mr. President.

The President. Maybe we can insert an amendment to establish a system of rewards, incentives and recognition.

Senator Paterno. May I suggest, Mr. President, that the identification of those who comply with ethical standards should be done not by the superiors but by the peers of the employee because they will recognize that; whereas, the superior might be guided by other motives.

Thank you, Mr. President.

Senator Saguisag. Yes, I would hope, Mr. President, that the distinguished Gentleman from San Juan could perhaps put together a sentence or two that could be placed at the bottom of page 5 as Subsection (i), precisely to capture the thought of recognizing or rewarding or giving incentives for faithful, efficient, courteous, consistent or outstanding performance. As I have said, Mr. President, rhetoric has a powerful effect on human conduct. Such a positive aspect that could be another part of that moral compass, we are trying to make that here.

1518

Senator Lina. Mr. President.

The President. Senator Lina is recognized.

Senator Lina. Thank you, Mr. President. Will Senator Saguisag answer some questions?

Senator Saguisag. Gladly from the Socialist of MABINI.

Senator Lina. Thank you.

Mr. President, it is a common practice, nay, even a tradition in this country that constituents of political leaders approach Senators, Congressmen or appointive officials for recommendations either to be employed in Government or in the private sector, and I am sure this is encountered or experienced by all of us. Our constituents do, and I am sure many of those around in the gallery have approached one way or another or one time or another their favorite public officials for recommendations.

Will the Gentleman consider this practice of recommending one's constituents to a government office or to the private sector as conformable to ethical standards or does it fall short of the ethical standards that the authors of this bill would consider?

Senator Saguisag. Mr. President, that is really a very difficult one. That is one good illustration, as far as I am concerned, when our dreams and ideals here are at war with reality. So, from day to day, we find ourselves seeking a truce with reality. I would not want really to have to get up in the morning to have to deal with five or ten groups of people asking for recommendations, for medicines, for funeral money. I am not sure whether the time of that idea has come. I mean, a concept that has often and long been associated wrongly with Victor Hugo who never said the same. But what I am trying to say here is, it may be unrealistic, because after all, these people may have nobody else to turn to if they cannot even approach us. So, I think it is ingrained in the culture. To include a ban on it in

these ethical standards bill may require a little more study. Personally, I find the concept congenial.

But, it may be understood that, suddenly, we are a group of superlegislators here above the ground who would not want to meet with the unwashed mob seeking assistance for us for employment. Without being pejorative, the so-called traditional politicians among us handle this situation only too well. And, maybe, it is a question of really adjusting on our part. I have experienced that even some very early Sunday morning someone would come saying that without ₱500 he cannot board a flight to Los Angeles.

Senator Lina. Mr. President, I would like to share these sentiments with my Colleagues. I have been warned not to ask questions along this line for such questions may be politically unwise to ask. But this is a reality, and if we are talking of ethical standards, I think we should confront the issue and not only answer in a manner that the time has not come for that kind of upholding such standard.

Mr. President, is it not a fact that the moment a public official has succeeded in employing one or two or even ten or a hundred, these one hundred who are employed through the intercession of a political leader will now observe the other trait of a Filipino which is *utang na loob*? This is multiplied through the years, giving rise to what we call "political patronage" which is also one of the reasons why there is inefficiency in Government, and why the political maturity of our people has been placed in very serious doubt because of this practice.

Is it not a fact, Mr. President, that if a Senator, for example, writes or sends a recommendation to a bureau director, there is, whether we like it or not, a pressure being exerted on the bureau director, even though the recommenda-

tion is worded in a manner that this person being recommended should be considered depending on the qualifications that he or she possesses. The mere fact of sending a recommendation letter can already give rise to a question of undue pressure being exerted on the bureau director. Now, there are other circumstances that can aggravate the situation. When the Budget is being considered, I am not referring to anyone but this is in general, as a matter of principle any government official will be left to the mercy of those who will discuss the Budget and approve the Budget; and, therefore, he is likely to accept the recommendation of a person or a constituent? Is this not a fact, Mr. President?

Senator Saguisag. Well, *utang na loob* in itself is not a bad trait. It is not, in fact, exclusive to us alone. The old Roman law tells us that ingratitude was one of the worst crimes one could commit, and one guilty of it was going to be hurled down the Tarpeian Rock in old Roman times. The thought is also understood in the statement: *Amor con amor se paga*. Therefore, as long as one does not cross the fine line, I do not think we have to apologize really for gratitude. That is a natural sentiment. It is only when it is abused, it seems to me, that I can identify myself with the concerns of the Gentleman from Manila. But even before we entered public life, people had been approaching us for assistance looking for jobs. Sometimes, it just so happens that someone who has asked our help may really be particularly qualified for a particular job. In other words, as long as there is really no more than the natural or normal pressure, that is something we have to live with from day to day. I mean, even among us here, there is always some constant pressure on one another *na magbigayan tayo*. So, I do not know where the fine line is. What I am trying to say here is, I would like to think that our civil servants can look at these letters of recommendation as just normal

communications to be considered on the merits. Maybe if they feel that the letter writer is someone whom he should not offend, it may be because of something peculiar to that person. I do not suppose that when we write a letter, there is any kind of undue pressure that would distort the judgment of the one receiving our letters.

I have mixed feelings about it but it is partly because I feel so frustrated that I could not do more for people who do not have jobs. That is why I have been telling those who want higher minimum wage standards that from my own mail, the bulk comes from people who have nothing in life, and if I could not even give them a letter of recommendation, I do not know if they will turn to criminality or to insurgency. That is why I said I have mixed feelings; when the society is more normal, when it is more prosperous, maybe people would be too proud to ask our help. But, I think, asking the help of somebody, whether he is in public or private life, is just going to be one of the permanent problems of the human race.

Senator Lina. How about, Mr. President, recommendations for promotion?

Senator Saguisag. Well, there may, in fact, be people that we might want to fight for if we believe that he is extremely qualified.

Senator Lina. Is not our Civil Service system strong enough? Or, can we not strengthen our Civil Service System to the point that there is no need of interference on the part of certain officials, whether or not a certain employee has to be promoted? Is not there an evil that has to be curtailed, Mr. President? This system breeds a lot of patronage and, therefore, saddles our civil service system, because of these recommendations.

The Gentleman will agree that recommendations coming from persons of higher authority will create some undue pressure and, therefore,

make the government system ineffective in the long run?

Senator Saguisag. Well, when I mentioned earlier that we have to effect structural changes to influence behavioral or attitudinal changes, I was referring, for instance, to the compensation structure.

I am just sorry to have to admit that as long as people are not paid above the level of corruption, we will have to live with it. I think that most people would rather be honest than otherwise. But if he is getting less than a thousand pesos as take-home pay — he has four children, some of them are sick, they walk around barefooted, they could not buy the necessary implements or tools for their schooling — I would know, for sure, that a policeman who would ask for ₱20 a day is committing a crime under the positive law. I am not prepared however to pass moral judgment on him; after all, survival is the first law of mankind.

So unless, as I have said, we shall have improved the compensation of everybody in the Civil Service, it is very hard to tell them overnight that, from hereon, they stop that altogether. I would continue to say that. But, I am prepared to understand that someone who is receiving only ₱500 may be compelled to steal. In fact, it is almost a crime, from my standpoint, for the Government to employ anybody and pay him only a few hundred pesos. The Gentleman is really creating a condition where, as Oscar Wilde said, anything can be resisted except temptation.

Senator Lina. Will the Gentleman be amenable to regulate this practice and, therefore, allow certain amendments in the bill regarding the system of giving recommendations?

Senator Saguisag. Well, personally I am open to it. I will just have to consult my principal.

Senator Lina. Well, thank you, Mr. President. To be frank about it, I am quite disap-

pointed that the Gentleman, as the guardian of ethical standards in the Senate and of this country, has second thoughts on whether we should have such kind of amendments.

Thank you, Mr. President.

Senator Saguisag. I think, in view of the compliment, I just might accept any amendment he proposes.

Senator Shahani. Mr. President.

The President. Senator Shahani is recognized.

Senator Shahani. Mr. President, I am wondering whether my distinguished Colleague from Pasig and Pangasinan and elsewhere would yield to a few questions?

Senator Saguisag. Very gladly to my co-Senator from Pangasinan.

Senator Shahani. Mr. President, what I really wanted to ask Senator Saguisag was brought up by him in his reply to Senator Joey Lina. But I am just asking it because I believe it is important. I think that in a country like ours, one of the main reasons for public corruption and graft is the very low salary scale of our government officials and the high cost of living.

I believe that this is a very important bill, and I would like to congratulate the authors and the Gentleman in particular, Mr. President. I know that the Gentleman gives this bill high priority.

I wonder if, in the bill itself, some mention could be made on the responsibility of Government to pay government civil servants adequately.

I could not forget what a schoolteacher told me during the campaign in Camiguin Island, when she said, "You know, Mrs. Shahani, my salary is only less than ₱1000 a month, and sometimes, I wonder whether I should not join those prostitutes in order to increase my salary on which I can hardly live on."

I think there has to be a realistic approach to this. A government like that of Singapore, for instance, fortunately can afford to pay its government servants well. They see to it, Mr. President, that the civil servants are indeed given a salary which is commensurate to what the private sector pays. Mr. President, I wonder whether the authors of this bill could not insert a paragraph to at least give it a certain context within which the ethical standards should be practiced.

Senator Saguisag. I think that the idea, Mr. President, is excellent and we hope that there is some way we can accommodate in the proper place a recognition of that very valid concern.

Senator Shahani. Thank you, Mr. President.

The President. Senator Gonzales.

Senator Gonzales. Will the distinguished Gentleman yield to a few questions?

Senator Saguisag. Gladly, Mr. President.

Senator Gonzales. Well, this has something to do with the appointment of relatives. According to this bill, particularly Section 5, paragraph (c) — that would be the last sentence.

Senator Saguisag. Page?

Senator Gonzales. Page 4, lines 14 to 17. It says:

They shall not dispense or extend favors on account of their office to their relatives whether by consanguinity or affinity, except with respect to appointments of such relatives to positions considered strictly confidential.

Now, is the Gentleman limiting the appointment of relatives only to positions which are considered strictly confidential?

Senator Saguisag. It seems to me my understanding of favors is that if a son, for instance, of a public official is extremely qualified, I am not sure if that is doing the son a favor. What I am trying to say is that, maybe, a son who may

be a bar topnotcher may be willing to serve in the office of his father for only a fraction of what he might be earning in private life. I think, personally, without prejudice to the possible conflicting views of my coauthors, I think that the intent here is that even a relative is not qualified; the word is "nepotism," really.

Senator Gonzales. As this provision stands, it is very clear, at least, to me, that appointments of a relative is permitted only when the appointment is to a position that is considered strictly confidential.

Senator Saguisag. Yes, because in such a case, by general practice, one does not even look at the qualifications. In other words, in the case of the private secretary, let us say, of a justice; no one will even begin to ask whether the daughter is qualified or not because that is strictly confidential.

Senator Gonzales. That is correct, Mr. President. But I am thinking of the members of the personal staff of, let us say, an elective official whose term under the Civil Service Law is coterminous with the official concerned. Now, some of the positions in the personal staff are not strictly confidential in nature; and yet, the term is coterminous with the appointing power. And so, would that constitute a violation of this provision, assuming that a relative had been appointed as a member of the personal staff of an elective official whose term is coterminous with that of the appointing officials, if he is a relative and yet the position to which he is appointed cannot be considered strictly confidential in nature?

Senator Saguisag. My own understanding of this is that if the relative is really qualified, then he should not be covered by this. But let us say, if the son was a high school dropout and then he is given a very high responsibility, let us say, requiring the skills of an accountant or a lawyer, or a manager, I think that is what we intend to check here, that that seems to be nepotism, that

the only qualification seems to be kinship. But if one is a lawyer, for instance, and is being asked to do the job of a lawyer, as I said, subject to correction or to the contrary opinion of my coauthors, I do not believe that that is doing anybody a favor. As I have said, maybe it may even be a sacrifice on the part of someone who is qualified.

Senator Gonzales. So, on the basis of that explanation, Mr. President, probably some clarifications need to be done with respect to this specific provision.

Now, on the other hand, twice a public official is required to be loyal to the Republic and to the Filipino people, hence, on page 5, under the paragraph (f), captioned "Nationalism". — "Public officers shall be loyal to the Republic and to the Filipino people." And then, in the last sentence of the next paragraph, paragraph (g), *Commitment to Democracy*, the last sentence reads: "They shall at all times uphold the Constitution and put loyalty to country above loyalty to persons or party."

Now, is loyalty as used in this bill the same as crime against loyalty, like for example, treason?

Senator Saguisag. Treason is much easier to visualize really. It requires certain acts under certain conditions. Loyalty is more amorphous. I think it can only be decided on a case-to-case basis. If someone were told, for instance; "Let us go to Malacañang to rescue it from the NPAs," one might honestly believe that that would be his task; then, to me, there is not necessarily any disloyalty in that context. So this must be decided, it seems to me, on a case-to-case basis.

Senator Gonzales. Yes, because, at least, "treason," Mr. President, is defined under the Penal Code. And that is giving aid and comfort to the enemy.

But the question here is loyalty; as used here, it has never been defined. And it becomes too subjective, as the Gentleman tried to point out. Now, probably, it would have to depend upon one's personal belief. He might be thinking that his act is actually an act of loyalty to the Government and to the people, because he may think that his actions are to the best interest of the country and the people themselves; and yet, to others, they may feel that that is an act of disloyalty to the country.

Senator Saguisag. Well, I suppose that that would have to be left to the judgment of the proper official or agency that may have to decide on a complaint of disloyalty. There are many things in law; for instance, in labor law, we are asked or are obligated "to bargain in good faith." And it is not clear really, what is the central point or what are the outer limits of the concept. We are really setting ethical standards.

Senator Gonzales. But the trouble is that, while they are intended to set ethical standards, and I agree with the Gentleman, they are, however, punishable offenses under the penal provision of this bill. In fact, any violation of Section 5 of this bill constitutes an offense, and the penalty is even higher than other lesser violations, Mr. President.

And so, I was thinking that, probably, it must not. I mean, I am afraid that some of these provisions might be too overly broad, and therefore, we might be taking a great constitutional risk under the "void for vagueness rule," because they are all words without, really, any concrete definition of the same.

And as the Gentleman has pointed out, sometimes an act of loyalty to one might be an act of disloyalty to another. And that is my difficulty. There might be vagueness as a consequence of the broad meaning of the words used here which, unfortunately, are not only

ethical standards but are offenses punishable under this provision.

Senator Saguisag. It seems to me that that is the normal stuff that judges grapple with everyday. And I know that there will always be very tough or borderline cases, but there should also be cases where it can, honestly, easily be agreed on because they are blatant cases of disloyalty, so that, in cases of penal prosecution, I think that the applicable maxim is, in case where we are able to create any reasonable doubt at all, then acquittal must follow.

Senator Gonzales. Mr. President, some of the acts or omissions which are punishable under this bill are somehow covered already by the provisions of the Anti-Graft and Corrupt Practices Act and also of the Revised Penal Code.

Is it my understanding then, that a conviction or acquittal, and in a prosecution for violation of any of this provision would constitute a bar to another prosecution for the same offense punishable under the Anti-Graft and Corrupt Practices Act or the Revised Penal Code?

Senator Saguisag. I believe that that is a fair statement of my own personal position.

Senator Gonzales. Mr. President, the intention of this provision is not the negative but the positive approaches by setting. . . That is why the title says: By Setting Certain Ethical Standards. And if there are penal provisions, they are, really, not intended to make this as a penal statute but, certainly, merely to give sanctions in order to enforce its provisions. Is that my understanding for the motive or the reason behind this bill?

Senator Saguisag. I think that is, again, another fair statement of the intent of the authors of the bill, Mr. President.

Senator Gonzales. Yes. Then, did I hear the Gentleman correctly when he said that as far as the practice of a profession by Members of

Congress is concerned, referring to Senators and Representatives, it has been left to the study of a committee headed by Senator Angara?

Senator Saguisag. For that Body to make the recommendations to the Senate so we can act accordingly.

Senator Gonzales. This subparagraph 2 of paragraph "b," Section 6, page 6:

"Engage in the private practice of their profession unless expressly authorized by law and provided that such practice will not conflict or tend to conflict with their official functions."

As is, must it be understood as open and not, as yet, the provision applicable in the practice of professions by Senators and Members of the House of Representatives?

Senator Saguisag. May we know what page the Gentleman is referring to?

Senator Gonzales. On page 6, Mr. President. That would be subparagraph 2 of paragraph b Section 6.

Senator Saguisag. Lines?

Senator Gonzales. That would be lines 16 to 19.

Senator Saguisag. That is further qualified down the line, beginning with the line 27 — the prosecution.

Senator Gonzales. That is right, Mr. President. The point is, this involves practice, private practice of their profession; and this applies now to all public officials. Now my point is, since the matter of practice of profession by Senators or Members of the House of Representatives is still an open matter pending receipt of the recommendations of the Committee headed by Senator Angara, then this provision is not, as yet, intended to apply to Senators and Members of the House of Representatives.

Senator Saguisag. No, Mr. President, because really, the only limitation that we can validly

recognize in relation to the practice of law is what is found in the Constitution. We cannot add anything that will restrict that as a legal matter. But on our own, we may want to adopt as an ethical matter an even stricter application; that is an open question.

So for the moment we are not touching that; we are just relying on the Constitution itself. When the Angara panel makes its recommendation, we may just adopt the constitutional stricture or we may want to make it stricter if those of us here in the Senate want to set a higher standard for the rest of the country.

Senator Gonzales. So that answers my question, Mr. President. My other question is: Does this provision against the private practice of the profession as contained in subparagraph 2 of paragraph (b) Section 6, not applicable?

Senator Saguisag. No, Mr. President. That is why I made it very clear in the sponsorship speech for proper reference at the proper time.

Senator Gonzales. Yes. That will be very well, Mr. President, and we will reserve our inquiry or our own comments when the time comes when the matter is submitted to this Body for consideration.

That will be all for the moment. Thank you, Mr. President.

Senator Saguisag. The Senator is welcome.

The President. Senator Pimentel is recognized.

Senator Pimentel. Thank you, Mr. President. Will the Gentleman yield to a few questions?

Senator Saguisag. Gladly, Mr. President.

Senator Pimentel. Mr. President, we would like to inquire why the Gentleman is widening the scope of nepotism from its present provision, which only covers up to the third civil degree. Why is it that he is extending the prohibition to

the fourth civil degree which will now cover, I think, first cousins? Is there any definite reason, Mr. President, why the Gentleman would shift from the present confinement of the law on nepotism which reaches only up to the third civil degree, and is now extended to the fourth civil degree?

Senator Saguisag. I am not sure if that is the intent of the bill that was submitted by the distinguished Gentleman from Luzon, Visayas and Mindanao. If the Gentleman from Cagayan de Oro would not mind, is that the intent of the bill that was authored by Senator Guingona under PD 807, as sought to be amended by the distinguished Gentleman from Luzviminda?

The President. Senator Guingona.

Senator Guingona. The intent, Mr. President, is to follow the spirit of the Constitution which prohibits presidential appointees to the fourth civil degree. And since in many instances there has also been nepotism up to the fourth civil degree, we felt that this is a proposal to upgrade the ethical standards. However, we leave it to the Body.

Senator Pimentel. Thank you very much, Mr. President.

My next question is: Is it the position of the Sponsor that only poor people are capable of graft and corruption? Apparently, Mr. President, the Gentleman's point is to raise the wage of our Civil Service employees in order that we can expect ethical conduct in the Civil Service. I am really minded to raise the wages of our Civil Service employees in order that we can expect ethical conduct in the Civil Service. I am really minded to raise this point because the person who had displayed such reptilian rapacity for riches in the recent past was not contented with several billions of dollars in deposits in the Swiss banks but he had even gone to the extent of raping the resources of this country, in spite of his riches.

Senator Saguisag. No. That was hardly my intention at all, I agree with Balzac that behind every great wealth is a great crime. What I am just trying to say here is that we have to change the structures. We have to make it easier for our lowly paid employees to resist temptation. But certainly, what I am trying to say here is that most people would prefer to be honest than otherwise; and we have to help them. But there is corruption in every level. So, I am sorry if there has been any misimpression created that I had wanted to convey the idea that corruption or perceived corruption is the monopoly of those who have less in life. Certainly, that was not my intention. But what I am saying is that higher pay is necessary, if far from being a sufficient condition towards improving the ethical climate in our country.

Senator Pimentel. Thank you very much, Mr. President.

Senator Saguisag. He is welcome.

The President. Senator Enrile.

Senator Enrile. Thank you, Mr. President.

May I know if my distinguished Colleague will care to answer some questions?

Senator Saguisag. Gladly, Mr. President.

Senator Enrile. Mr. President, I agree wholeheartedly with the thrust of this measure. But I would like to be clarified on certain things.

On page 2, line 8 — "Receiving any gift." Will this affect the gifts that normally are given by visiting dignitaries to high officials of government like the President of the Philippines, the Vice President, maybe the President of the Senate, the Speaker of the House, and Chairman of the various committees of the Senate and the House of Representatives, or even our governors and city mayors?

Senator Saguisag. As I said, Mr. President, during the sponsorship speech, souvenirs and tokens of courtesy during visits are allowable,

as well as modest presents during birthdays, illnesses and retirement. So, I think it is an accepted political tradition that when there are visits by dignitaries, gifts are exchanged. So certainly, that would not be discouraged or prohibited.

Senator Enrile. If the President is given a special glass vase with a value of, let us say, \$1,000.00 by a visiting head of state, will that be covered by this bill?

Senator Saguisag. I am not sure whether we are ready to settle at this point the question of having a fixed amount, because Section 8 of Article IX-B, the second sentence, of the Constitution says:

"No public official can accept a gift or a present or emolument from a foreign government without the consent of the Congress."

So in the U.S., what they have done is they have agreed on certain amounts. And if it is above a certain amount, the gift is turned over to another office and it is not enjoyed personally by the recipient. That is why many of the gifts of the past regime have found their way into some warehouse. So, I am not sure that we are ready at this point to fix an amount here. That may have to be a subject of another law. When we say gift or emolument under the provision, do we say that if it is only \$10, there is no need to go through Congress? If it is \$1,000, maybe we have to secure the consent of both Houses.

Senator Enrile. Mr. President, suppose the Minister of Education of, let us say, France visits the country and pays a courtesy call to the Secretary of Education and gives the Secretary of Education a bottle of Christian Dior perfume costing \$100, will that come under the provision of this bill?

Senator Saguisag. My own feeling is that unless the visitor is asking for something from the Secretary of Education and that is just

really a social amenity, that should not be covered, but if he wants to get a contract for the supply of textbooks or audio-visual aids, then it may be covered. So, if it is just a one-time meeting between counterparts, I would have thought that that should not be prohibited under this bill.

Senator Enrile. Suppose, Mr. President, we are in the process of discussing the Military Bases Agreement, and the Chief of Staff of the Armed Forces of the Philippines, the Secretary of the Department of National Defense and the Secretary of Foreign Affairs were invited by the US Commander of Subic to play golf at the Subic Golf Course, and he pays for the chits, would that come under the prohibition of this bill?

Senator Saguisag. Does the Gentleman mean the US Commander will pay?

Senator Enrile. Yes, he invited our local officials to play golf.

Senator Saguisag. It seems to me that that is an accepted manifestation of ordinary hospitality. So, my own view is that it would not be covered if it is just limited to, say, merienda, or dinner, or lunch.

Senator Enrile. I am referring precisely to what appears on page 2, the phrase "not given in anticipation of a favor from a public officer." Because even if it is a nominal amount, Mr. President, or insignificant in value, but there is an indication that the amenities or hospitalities would be given in order to somewhat influence the attitudes of our public officers. In my opinion, with this proposed bill, our public officers might be hard put to determine whether they are guilty or not guilty. And I would like to clarify whether this will come within the ambit of this proposed measure.

Senator Saguisag. It seems to me that that clearly would not be covered. I would assume that, as a practical matter, in the course of nego-

tiation, courtesies would be exchanged — maybe, the next time they will visit us in Camp Aguinaldo, so the compliment is just being returned. It seems to me that that is not what we are trying to discourage here. If they are just trying to gain the goodwill in such an open manner because people have to drink and eat anyway, in the course of the negotiations, I suppose that that is an accepted form of hospitality that we do not intend to discourage, Mr. President.

Senator Enrile. By the term “not given in anticipation of a favor from a public officer,” does not the Gentleman think, Mr. President, that he is putting our public officers at the mercy of the giver because he is actually penalizing them for a purely subjective element that is entertained in the mind of the giver?

Senator Saguisag. Well, I think, what I like personally — I am not speaking for the other coauthors — is to encourage the deportment of people like Judge Makasiar. When he was in the Pasig Capitol, he would just return all gifts. I think that is what we mean by raising ethical standards. If it is kept, then I think it can be defended. But what we would like to see happen here eventually is that no one should be giving gifts to public officials, except if the official is sick or it is celebrating his birthday. Otherwise, I would like to go on record that all such doubts should be resolved against the public official because that could be the beginning of something.

I will yield to any contrary opinion of my coauthors but I would like to bring back those days when, I would even be told, for instance, if a judge was named to a certain town, during the first night, he would be feted by the bar association, and that would be his last social contact with the practitioners of the town.

I think we are trying to bring back those days. But I am not going to pass judgment on those who may be more liberal-minded. But if a

public official does not want to be misunderstood, he should make it very clear—no gifts allowed. And I think that the people would want that.

Senator Enrile. Mr. President, I would like to thank my Colleague for his answer.

Now, the other question that I would like to clarify is: Would this proposed measure cover the grant of scholarships to our public officers by foreign foundations or foreign governments who may have some bilateral negotiations going on with our government?

Senator Saguisag. I think the answer to that, Mr. President, is it is time we passed a law consenting in advance to all these gifts as done in the United States. I would want to co-sponsor such a bill, if one is proposed, that, in advance, both Houses are consenting to exchange programs. In fact, as I identified in the proposed resolution I filed, there is such a law in the US, and there is a very elaborate set of regulation regarding the acceptance of gifts and decorations from foreign governments by members of Congress, officers, and employees. So, as of now, I tend to doubt it because I think that is one way by which a foreign government like the United States can get key people in our government who may be in a position of influence. They will be given all the hospitality to soften them, so that when questions about investments, about foreign bases, about the nuclear-free provision without any enabling law arise, I would want the spirit of Section 8, of Article IX-B of the Constitution to be followed. That should not be allowed because that would be a substantial gift that could in a tight case influence the recipient in a manner that may be adverse to the interest of the Filipino nation.

Senator Enrile. Now, Mr. President, I go to page 3 and call the attention of my distinguished Colleague to line 3: “duties therein may be op-

posed to or affected by the faithful performance of official duty.”

And there is also a similar provision using the word “affected” on page 6 line 21 — “affected by the function his office.”

If we are stockholders of corporations and we are Members of the Senate and we pass laws affecting these business enterprises —for instance, a reduction in the corporate income tax — will such an act be affected by the provision of this proposed measure?

Senator Saguisag. If my memory is true, what the Constitution requires is that the member of the Congress concerned should identify that, in that particular case, there is a potential conflict of interest. My own view is that I would expect such member not to take part in the deliberation of any measure that may have an impact on a business in which the member concerned may have an interest.

Senator Enrile. No, I am talking, Mr. President, of a general tax law. For instance, we now adopt in Congress a general tax law reducing the corporate income tax. It does not affect any specific corporation but the reduction will benefit some corporations where some of us may have some substantial investment. Would this come within the prohibition of this law?

Senator Saguisag. I would tend to doubt it. I think the usual problem is sometimes the legislator concerned would want to get a special break for a particular company. But if this one is of general application, I do not see any problem, Mr. President.

Senator Enrile. Thank you, Mr. President.

Now, on page 10, Mr. President, beginning with line 4:

In the case of Presidential appointees in the Executive Department, except members of the Cabinet and their deputies or assistants, the President of the Philippines, may, in the public interest, and after full disclosure of the con-

flict of interest by the officer concerned, waive the requirements of divestment.

My reservation here, Mr. President, is in view of the provision of the Constitution, I cannot understand the exception given in favor of the members of the Cabinet and their deputies or assistants, whether they are exempted from these provisions or whether they are going to be treated with a special provision and why there is that special treatment of presidential appointees other than members of the Cabinet and their deputies or assistants.

Senator Saguisag. My understanding, Mr. President, of this passage is that the Cabinet Members and their deputies or assistants, under the Constitution are subjected to very strict constraints. It seems to me that this is meant to authorize the President to waive the divestment requirement in the case. For instance, if I want to get Retired General or Retired Ambassador so-and-so to be my special emissary to Japan for one assignment lasting maybe a week, and if he will be required to divest, he might not want to to serve. So, I have the sense that that is really the intent here. There may be some *ad hoc* assignments, rather transitory, a one-shot thing, so to speak. To subject the appointee to divestment, may be too onerous a requirement.

Senator Enrile. But that would be covered already in the example given by the distinguished Gentleman, under the second, the ultimate paragraph of Section 8, lines 13 to 15 which covers special assignments without compensation.

Senator Saguisag. But he may be compensated. Let us say, in the case of the Bataan Nuclear Power Plant problem, we may ask the President to appoint an expert for one year and he may charge us a big amount. He may be a Filipino who might have studied at Caltech and might have retained his citizenship. We may ask him to come for one year but if we will say, “Give up all your property,” he might not want

to come, although we may pay him. So I think that lines 13 to 15 apply only to those who receive no compensation, while another situation would apply to a case where the appointee may receive not only nominal but even substantial compensation.

So, we would want to give the President, in a special case, the power to exempt someone in the private sector whom we may want to borrow for a short period, for a special assignment.

Senator Enrile. Mr. President, on page 4, line 27: "Public officers shall extend prompt, courteous, and adequate service." Who will determine whether the service is adequate or not, Mr. President.

Senator Saguisag. Well, in the end, it will have to be a somebody that will receive the complaint, whether an administrative board, his superior or some court.

Senator Enrile. Now, Mr. President, my last question is the concept of gift under this law. My distinguished Colleague, like all lawyers, has referred only to a thing or right, but there are other gifts that sometimes would influence the disposition of public officers other than things or rights. Would he possibly consider the inclusion of this at a certain time when we discuss these provisions page by page — immoral gifts of the personal type?

Senator Saguisag. Would he please translate? [Laughter.]

Senator Enrile. I would rather keep it to my self, Mr. President. [Laughter.]

Senator Saguisag. Well, of course, but there are just certain limits as to what we legislators...

Senator Enrile. I will whisper it in the ear of my distinguished Colleague at a proper time, Mr. President.

Senator Saguisag. I think some things go without saying, Mr. President.

Senator Enrile. Thank you very much.

Senator Saguisag. He is welcome.

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

Senator Romulo. Mr. President, may we ask the distinguished Gentleman to yield to a few questions?

Senator Saguisag. Gladly, Mr. President.

Senator Romulo. Mr. President, just to clarify my mind, may I go back to the question of gifts.

It seems to me, Mr. President, that the one exception is that if the gift is nominal and it is not in anticipation of any favors and it is not solicited — that is the only exception. In other words, even if the gift is nominal, if it is solicited, then, that is a prohibited gift.

Senator Saguisag. Yes. A good case is, for example is soliciting ₱1.00 from a jeepney driver. That would be covered.

Senator Romulo. So, the coverage is so comprehensive that about the only exception are nominal gifts which are not solicited and not in anticipation of a favor?

Senator Saguisag. That is the ideal, that it should be nominal and innocent.

Senator Romulo. Then, why do we not prohibit even that because, Mr. President, I think there are fine lines here and since the only exception is unsolicited nominal gifts, well, perhaps just to eliminate any doubt or uncertainty, and the possibility that the Gentleman might traverse the prohibited line and also to avoid a lot of litigations later on, that we did not traverse the line why not also prohibit that, so it is absolute? Besides, it does not serve any purpose by leaving unsolicited nominal gifts.

Senator Saguisag. I think that is another case. As I have said earlier, our dreams must

sometimes seek a truce with reality instead of always being at war with reality.

At times we encounter situations here — I have seen it happen in the case of some of our Colleagues here — some of our countless admirers wait for us with a small piece of cake or the like, plus a short grace note. Should we reject this? I am not sure whether one might just unnecessarily offend, as in the case of the Gentleman from Tarlac. I may ask: How can thou break that heart of hers, whose only fault was admiring thee?

Senator Romulo. Well, Mr. President, I am in a dilemma myself, but it is in pursuance of the answer to a question; and so I am concerned about the uncertainty of when do we traverse that prohibited line and when do we not? In other words, what I am saying is: I do not want to put any public official in a position where, because of the uncertainty in the line, he traverses it even without knowing it.

Senator Saguisag. In that case, I think the answer is the Makasiar practice. He just would return all gifts. But in the other cases, maybe some discretion should be left to the individual whether to return a gift or to keep it. Because sometimes it could be painful. I mean, especially to someone who really meant to give, all in good faith, something in appreciation, especially if the relationship goes back a long way. So, the answer there is, there is nothing, it seems to me, to stop a public official from adopting a very strict, personal Makasiar-type standard — just return everything.

And in that case no one is offended because the giver would be told, "the judge just does not accept gifts." Or Senator Romulo has made it 1 practice not to accept any gift. In my case, I will personally review that. Maybe that is the same standard I should adopt if only because I am Chairman of the Ethics and Privileges Committee. That is, in fact, one reason, Mr. President, I have just drafted a resignation let-

ter addressed to one of the companies I am in now. I think that as Chairman of this Committee, maybe more is expected of myself. But I would not want that to be a strictly legal requirement applicable across-the-board, as it were.

Senator Romulo. Mr. President, the answer satisfies me.

Now, if I may pursue that question of gift or something similar to that, which is related to the resolution filed by the distinguished Senator. In that bill he refers to any present, which is a gift, or emolument of any kind from any foreign government, which seems to be clear enough, but my question is: If it is not a foreign government, well, first, under existing constitutional provision, let us say the United Nations or an agency of the United Nations or other international organization like the Red Cross, would that fall under the present prohibition that he seems to indicate exists?

Senator Saguisag. No. Mr. President, because those agencies are clearly accepted to be altruistic organizations which are not out for anything for themselves. But it might be good if we are able to draft a law that there should at least be a reporting requirement to be filed, let us say, with foreign governments because they have their own interests to pursue. But the Red Cross has gained justifiably a reputation for altruism. So, certainly, that is not within the purview of the constitutional prohibition nor of this law.

Senator Romulo. Yes, that is my next question. It may be for an altruistic purpose, but certainly, they say the per diem or the contribution would not be nominal. Would that be encompassed in the bill under discussion, Committee Report No. 32 on Senate Bill No. 139? I am saying that since foreign government emoluments or presents or that sort of things are, in the Gentleman's view, prohibited. But he says that international organizations, whether United Na-

tions or private, are not within the purview of the present constitutional coverage, would they be under the coverage of the proposed Senate Bill No. 139?

Senator Saguisag. My own view is in the negative inasmuch as I do not believe that there are ethical problems with such a situation. Maybe we can tighten or refine this to cover that. I think we should spread upon the record that that does not seem to be the intent of this bill. They do not come to ask anything from us in a manner that may go against the grain of this proposal.

Senator Romulo. Mr. President, I have other questions, particularly on the practice of law and the profession, but those have already been answered in reply to the questions posed earlier and so I would not pursue them. But they are also my concern, because I feel that if we are going to have a law on ethics, it seems to me that if not in this bill, then as early as possible, we should discuss that so as to encompass the whole ethics problems.

Senator Saguisag. In fact, I should make it of record that it was due to the inquiry of the distinguished Gentleman from Tarlac that I took up that particular question with the Senate President, who made it very clear. And that was why I can say it with some confidence that that really was the intent. That is an open question; we will have to await the recommendations of the panel headed by our distinguished friend from Baler.

Senator Romulo. And finally, Mr. President, perhaps during the period of amendments, the Sponsor would permit us to introduce amendments to these provisions with the view of clarifying them and, perhaps even with the inclusion of some specifics, precisely to avoid any misinterpretation later on and to clarify certain points.

Senator Saguisag. We welcome any sugges-

tion in our endeavor really to improve this bill. We know that it can really stand some improvement and we will be delighted to listen to such amendments as proposed at the proper time.

Senator Romulo. May I then commend the authors for this very noble and laudable bill.

Thank you, Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Mr. President, just a few clarificatory questions if the Gentleman will yield.

Senator Saguisag. Gladly, Mr. President.

Senator Guingona. Concerning divestment, Mr. President, would the Gentleman concede that there may be divestments that do not totally alienate the property or the assets of a person who is appointed to office? For example, a blind trust where the custody, care and management of the asset and its earnings are placed in a blind trust unknown even to the owner. Because there may be instances, Mr. President, where the appointed public official does not wish to permanently sell or transfer his asset for various reasons. And he would like to avoid precisely the conflict of interest during the time that he is going to serve in public. Could this kind of divestment be included in the divestment as stipulated here in this bill, Mr. President?

Senator Saguisag. I believe that in the U.S. there is an automatic requirement of divestment when one assumes office. But in this particular case, page 9, Section 8, it really speaks of a particular situation where a possible conflict of interest may have arisen. And if one were allowed to employ the blind trust device, I think all, most everybody else, would read it as some kind of a dummy arrangement. It will be very difficult to tell the people that "I have nothing to do with that blind trust." So, the solution here is for him either to divest or not to enter into that kind of transaction. But if what I will do is just

temporarily divest myself of it, I think no one will take us seriously when we say that that is not an attempt to go around any dummy arrangement type that is equally bad. So, if one is going to examine the way it is worded, "Where such conflict of interest exists, he must divest himself."

Senator Guingona. That means, sell.

Senator Saguisag. Right. Because if I would just put it in a blind trust, as I said, for all practical purposes, it would look to me as if it would just be a very transparent dummy device. So I would be for the strict application of this, the blind trust arrangement. I would go along if it were an automatic requirement — that upon assumption of office one divests himself and puts it in a blind trust. That is fine, but if we wait for a particular situation to arise, and then we say, "As long as this transaction is pending, I will temporarily give this up in favor of my blind trustee," who will take us seriously? I doubt that anyone would.

Senator Guingona. So, if before assumption into office the public official divests all of his assets, whether there is a conflict or not in a blind trust, would that be acceptable to the Gentleman?

Senator Saguisag. I think that would be an improvement. That would be above and beyond what the law requires. That would be ideal.

Senator Guingona. In other words, he does not wait for any possible conflict to arise. He divests himself, but in the manner of a blind trust; not necessarily sell it.

Senator Saguisag. Right. But I would like to make it clear that we may not be ready for that. It is not the intent of this bill.

Senator Guingona. Would the Gentleman agree to an amendment later on?

Senator Saguisag. Again, may I say that sometimes our dreams, which are at constant

war with reality, must seek a truce. Imagine, if we will have to ask the Gentleman from Cagayan especially, the Gentleman from Batangas to put all their properties in a blind trust — it seems like it is changing the rules in the middle of the game, unless it is not going to be retroactive. Maybe, if it is not going to be retroactive, I may go along.

But one thing that I have observed in all the consultations and conferences I have had since I took hold of this bill is that many private citizens today are, in fact, discouraged from entering public life. There is too much criticism; they cannot hold more than one job, et cetera. So, it is a practical problem. Too many bright young people, as it is, are being deterred. So, if we will add another very strict requirement — that one divests himself — I am not sure whether we may be shutting ourselves from the pool of talent out there. So, that idea, its time may not have come. I would hope that that would be the subject of another bill.

Senator Guingona. I hope the Gentleman will let us know when the time has come. Thank you, Mr. President.

Senator Saguisag. He is welcome.

Senator Herrera. Mr. President.

The President. Senator Herrera is recognized. He has been waiting.

Senator Herrera. Thank you, Mr. President.

I have a few questions, if my good friend, the Gentleman from Pasig, will yield.

Senator Saguisag. Gladly, Mr. President.

Senator Herrera. On page 4, line 21, paragraph (d), Political Neutrality, the word "resources" here, I understand, includes human resource — "They shall not use the resources of Government to promote, favor or support the candidacy of an individual or the interest of any political party in any partisan political activity . . ."

May I know if the intention of this provision in the word "resources" is to include human resource?

Senator Saguisag. Well, I think this only restates an old existing doctrine. Civil servants can only state their preferences but cannot go beyond that.

Senator Herrera. So that it is the intention of this provision that, for instance, in this forthcoming local elections, the President is prohibited to, let us say, ask her Executive Secretary to campaign for a certain individual or for a particular political party.

Senator Saguisag. I think the political tradition in this country is that some people are allowed to campaign if they belong to a political party. I am not sure if that applies to the Executive Secretary. Maybe, it should not, because we need the Executive Secretary at all times to attend to his many duties in the palace.

Senator Herrera. For instance, any of the Cabinet members, not necessarily the Executive Secretary, is the President prohibited to ask the Secretary of Local Government to campaign?

Senator Saguisag. I am not personally bothered by the President and the Cabinet Secretary, especially if they belong to a political party. I think they can go around stating their political preferences but they should not use the resources of the Government. In other words, if they say that this Government is a great government and it needs to be supported, and my own preference is to vote for the administration candidates, I do not think that they can be prevented from exercising their right to free speech in that respect. It would really be unfair otherwise. But if they use material resources, let us say, to induce voters with transport, money, then that clearly would not be allowed.

In other words, if the Gentleman will recall, the President very strictly followed her own

standard of not using or allowing even a single centavo to be used to promote our campaign, but nothing could be said against her going around the country to campaign for us.

Senator Herrera. Precisely, Mr. President. That is why I am asking whether the word "resources" here includes human resources because the Secretary of Local Government can be a part of the resources of government. So that, if under this provision the President is prohibited to use her Secretary of Local Government to campaign for her party or for a particular candidate, then she would be violating this particular provision.

Senator Saguisag. I doubt it. As long as he just states his preferences, that is allowed. No one says that a leader to whom people look for a guidance should be prohibited from mentioning his opinion about certain candidates. In fact, it is even entirely possible that a department secretary may campaign against a candidate of the administration and that cannot be prohibited. So he may say in his province that the superior candidate is the candidate of the opposition and that is a right that is recognized by the Constitution. Of course, he must be prepared to pay the political price. He may get socked. But certainly, he can state his preferences. And that is an old tradition of long standing.

If Mr. Reagan would want to go anywhere he wanted, or if Mrs. Aquino would want to go to any place to promote the candidacy of anybody, I think that is an accepted practice and that can be defended. I do not think it is the intent here to ban that.

Senator Herrera. So that is not the intention of this particular provision.

Senator Saguisag. I think this really refers only to material resources.

Senator Herrera. Material resources. So in this case the President or any surrogate of the

President who would be campaigning for a particular candidate or a political party would be prohibited to use government vehicles or security personnel during the campaign.

Senator Saguisag. I think we have to be realistic about it. One can always package the trip as being in pursuance of an official duty.

Senator Herrera. I think that is the purpose why we are establishing these ethical standards in order that we have to be very strict in the actuations of our public officials and we should be very clear on this.

Senator Saguisag. As I have said, who knows if the department secretary may even campaign against the candidates of the administration and he should not be prevented from doing that. And he could always justify it, it seems to me, as a trip to a certain place. One does not have to be very imaginative to say that the Secretary of Local Government for instance, in my view, can always justify a trip as consistent with the implementation of a very valid project which cannot be suspended during the course of the campaign.

Senator Herrera. Does not the Gentleman think, Mr. President, that if we will allow exemption or allow the explanation that the Gentleman is saying now, it would only render this provision useless? Because the Secretary of, let us say, Local Government can just justify that he is using public vehicles although he was campaigning, but by just saying that he is using this for other purposes, then that will defeat the purpose of the intention of this bill.

Senator Saguisag. As a practical matter, when a cabinet secretary performs his functions, he has to use some vehicles. So, we are not really trying to achieve anything perfect here. As I have said, we always have this constant war between dreams and reality. As some point, we have to seek a truce. Again, I am saying that although we want to have the most elevated

ethical standards, there are some things that are not just as possible to legislate on. Instead of feeling frustrated, I think we have to be prepared to live with that, that a good cabinet secretary can always reconcile performing his functions conscientiously with stating his personal preferences which may not even be in favor of what the administration might want.

Senator Herrera. Now, page 5, paragraph (f), entitled "Nationalism." Is it the intention of this provision also to punish green card holders, because I understand that there are certain cabinet members who are green card holders. I would like to be clarified on this particular provision.

Senator Saguisag. I think some of the green card holders I know — past and present — have been the most loyal citizen of this Republic. On the other hand, people who have never held a green card have been the most disloyal people in this Republic. A green card may have nothing to do with one's loyalty. I am very proud to have known some of these green card holders now or in the past and they have done far more than all of us here put together, so, I am not going to pass judgment on them.

Senator Herrera. So under this paragraph entitled "Nationalism," what the Gentleman is saying is that those who are holders of green cards are persons of loyalty who are not questionable and, therefore, are not within the purview of this paragraph.

Senator Saguisag. No, Mr. President. I am not saying that one who holds a green card necessarily must be a bad person. I am not prepared to accept that. What I am saying is that if we are going to pass judgment on the green card holders, let us give them their day in court. But I do not want anything to be placed here that if he is a green card holder, he is disloyal.

Senator Herrera. Precisely, I am clarifying

whether the intention of this paragraph will cover the green card holders, because, certainly, for a person who is applying for citizenship to another country, then he must not be absolutely loyal to his country.

Senator Saguisag. I do not know. If President Reynaldo Cabauatan takes over tomorrow, some of us may be applying for green cards to survive and continue the struggle in another land. So, I am not going to pass judgment on these people. Some of them have to do that to have a legal basis to continue the struggle in another land. With all these coup d'etats, who knows? The Gentleman may need one tomorrow, and I will never take it against him.

Senator Herrera. Of course, my good friend is not implying that he is a green card holder.

Senator Saguisag. No, because it is the CIA whom the Gentleman represents who takes care of that.

Senator Herrera. I am only the Gentleman's assistant, my friend. Paragraph (h) "Simple Living."

Senator Saguisag. What line?

Senator Herrera. Page 5, line 21:

"Public officers and their families shall lead modest lives appropriate to their positions and income . . ." I would like to be clarified whether the income here refers to the income derived from the Gentleman's position in the government or this is aggregate income? Because like here in the Senate, for instance, I am sure the Gentleman will agree with me that our kind of living may not be the same as the others. So, our perception of a modest life may be different from the others. I would like to know whether modest living refers to the income of the Gentleman's position in the Government or does this include the Gentleman's aggregate income?

Senator Saguisag. I think that, again, is a practical matter. It should apply to the aggregate.

Senator Herrera. And who determines modest living?

Senator Saguisag. Again, it is on a case-to-case basis. I am really for applying an elastic test here. It will be very hard, if not impossible, to expect some of our Colleagues to adjust to a lifestyle that one earning only ₱17,000 per month can afford. This is really, only an exhortation. I think we should make that very clear.

Senator Herrera. Thank you, Mr. President.

Senator Saguisag. He is welcome.

Senator Laurel. Mr. President.

The President. Senator Laurel is recognized.

Senator Saguisag. This is the second time that the Gentleman from Batangas will torture me.

Senator Laurel. A very simple one, Mr. President, just to ascertain the position of the Sponsor on this Section 5 which has been raised initially by Senator Gonzales and touched by the other Senators who interpellated the Sponsor.

Senator Saguisag. What page?

Senator Laurel. That is page 3, Section 5, I think there are eight of them enumerated here: Commitment to Public Interest, Professionalism, Justness and Sincerity, Political Neutrality, Responsiveness to the Public, Nationalism, Commitment to Democracy, and Simple Living. Now, I would like to know, Mr. President, if it is agreed that these are simply norms or standards of ethical conduct. Obviously, the answer is yes because that is how it is defined here.

Senator Saguisag. There may be some clear cases of disloyalty. . .

Senator Laurel. No, Mr. President.

Senator Saguisag. . . . because that is part of the norms.

Senator Laurel. Section 5. "Norms of Conduct of Public Officers."

Senator Saguisag. Yes, Mr. President.

Senator Laurel. "Every public officer shall observe the following as standards of personal conduct. . ." It is so stated, Section 5, page 3.

Senator Saguisag. Yes, and I believe that if a case can be proven beyond reasonable doubt, let us say, in regard to a violation of the disloyalty requirement, I have no problem imposing even, say, an imprisonment of one day.

Senator Laurel. So the answer to my question is yes, they are standards and norms of conduct.

Senator Saguisag. Which may be punishable by law if violated.

Senator Laurel. I see. So, the position also of the Sponsor is that standards and norms of conduct are punishable and can really be punished. Is that the position of the Gentleman?

Senator Saguisag. Particularly in the case of disloyalty, because he can be fined only ₱1.00. That is possible under the law. So, much is left to the discretion of the judge. In other words, a blatant violation of these norms should be subjected to some sanction, even if it is only imprisonment of one day or a fine of ₱1.00. That should serve the purpose.

Senator Laurel. I was afraid, Mr. President, that that would be the answer of the Sponsor. And I take the position that Senator Gonzales has taken — that standards cannot be punished. How can anyone, for instance, punish the norms or standard of professionalism? And it says here, in this particular section, on page 4: "(b) Professionalism. Public officers shall perform and discharge their duties with the highest degree of professionalism, intelligence and skill."

How can we punish one who just discharges

his duties with a high degree of professionalism? Not the highest, just high.

Senator Saguisag. I can imagine a case where someone does not report for work for six months. He is very unprofessional in my view, he is not skillful; so no problem. If I were the judge, I can sentence him to a fine of ₱10.

Senator Laurel. Mr. President, these are intangibles like justness and sincerity, responsiveness to the public. It is just like love, affection, respect. Those things cannot be mandated by law, Mr. President.

Senator Saguisag. I think they can be, especially justness.

Senator Laurel. It is just like saying, for instance, Mr. President, "love your wife," "honor your father and mother." The Gentleman cannot ordain those things. Those are intangibles. Those are developed from within. And there are standards in the case of norms, of performance, and trying to attain it is a matter of stages. Who will decide, for instance, that *tama na iyon, hanggang doon na lamang ang kaya ko*. That is my skill, my intelligence. I am punishable if I do not reach the top, if that is as far as I can go.

Mr. President, I stood up and took the floor because I thought that really the point raised by Senator Gonzales and pursued by Senator Enrile is a valid one.

I think norms and standards cannot be punished. I think when the period of amendments comes, maybe an amendment could be presented and that would be simply the elimination of Section 5 from the penalties. Page 11, "Penalties. — (a) Any public officer" And then we come to line 20: "Violation of Sections 5, 6, 7, or 8 of this Act shall be punished." When the time comes, maybe the elimination of Section 5 would be in order.

Thank you, Mr. President.

Senator Saguisag. What I would like to state here is that one should not set up a straw man and knock it off. I mean, there is nothing mentioned here about love. I am perfectly amenable, let us say, to making the violations of this punishable only by a fine. But let us take political neutrality. It is so easy to identify, a violation of this. I mean, even sincerity. An employee tells one to come back for a document tomorrow, and he does not deliver; he repeats the same offense and next month, et cetera. That is a sign of insincerity. Or, let us say, "without unfair discrimination," let us say a superior promotes a lady who is not qualified just because of some of the favors that may have been in the mind of the distinguished Gentleman from Cagayan earlier. I mean, these are easily identifiable.

In other words, if the intention is just to make it punishable, let us say, only by a nominal ₱100 fine, I think we should be open to that. But to say that the requirements of loyalty, political neutrality, and professionalism are meaningless, well, we often accuse people of being unprofessional of being unjust, of being unfair. I do not see any problem in a particular case that may arise.

In other words, where it is a particularly difficult case, the judge just acquits the one who is concerned. But in a particularly clear case of disloyalty — let us say, a soldier shoots the Commander-in-Chief — to say that one still has problems whether that is disloyalty might be exaggerating a bit. I would compromise by saying that, maybe, what we should consider here, Mr. President, is to remove the penalty of imprisonment; maybe, just a fine and, maybe, make it nominal. But we have to dramatize the sanction on some of these cases.

Senator Laurel. Mr. President, norms and standards are just like ideals. Ideals are up there in the sky and our objective is to attain the ideal, the lofty ideal, but we can go only as far as

the top of this Chamber. Is that already punishable if that is as far as I can go and yet, I am striving as much as I can?

I think, we should limit ourselves to specific acts, prohibited acts if they are already contained in Section 6 of this bill. Section 6 states here: "Prohibited Acts and Transactions." Why do we not limit ourselves to those specifics instead of punishing one for not being nationalistic enough?

We already discussed on the floor of this Chamber that we are center; the other one is there and the other one is here on the left — well, a matter of degree. How can we punish one for being a little left of center, or for being right of center? It is the same thing here. We cannot say that one is not loyal enough, not nationalistic enough, not respectful enough, or not fair enough. Where would the Gentleman draw the line, Mr. President? I agree with the statement made here by the previous speakers, Senator Gonzales, particularly. These are standards. We cannot punish failure to reach the standard.

Thank you very much.

Senator Saguisag. In the case of nationalism and, maybe, that's the final point on page 5, letter (f), if a public official in a particular case always expresses a preference for PX goods and not locally produced goods, if I were the judge, I would have no problem fining him for ₱100. We can take a clear case of racial discrimination. We have to start with something like this. If it is going to be totally toothless, then we might as well not pass this. I mean, we might as well just put it out as a resolution. So I would prefer that it be kept, even if the sanction is very light. A modest fine, perhaps, but I would not be for leaving totally unpunished a violation of these norms, especially where we may come across a clear case of gross disloyalty to the Republic where people cannot honestly differ.

But in any case, during the period of amendments, we are open to any congenial, practical amendments that may not defeat the purpose of what we are trying to achieve here. Admittedly, it is an imperfect work, it is an experiment, but all life is an experiment, as it were. The 200-year old Constitution of the United States is an imperfect document but so much has been achieved thereunder. So with that, I rest my case, so to speak, unless there is anybody else who might want to . . .

The President. I think Senator Paterno would like to ask some questions.

Senator Paterno. Mr. President, I think at this point it is timely to reiterate the question that I asked earlier. Is the only way open to us to improve ethical standards, the way of punishment? Is there not a way of reward, Mr. President? So, I would like to suggest that, perhaps, Mr. President, Section 5 which refers to ethical standards, could also encourage a system of rewards. Whereas Sections 6, 7 and 8, which are prohibited acts then can be covered by punishments. It seems to me that there is room in the question of values for a system of rewards and of punishments. So, I would like to propose, Mr. President, that, perhaps, the Sponsor could think of Section 5 as the beatitudes, whereas Sections 6, 7 and 8 are commandments.

Thank you, Mr. President.

Senator Saguisag. I will take it up with the other coauthors. If that would be the sentiment, as I said, I am open to it, although my personal view is to maintain some kind of a negative sanction, at the same time we will add positive sanctions.

Senator Maceda. Mr. President.

The President. Senator Maceda.

Senator Maceda. Mr. President, If there are no other interpellations, I would rather just make a statement.

Mr. President, I, of course, agree with the intentions of this bill. I just would like to put in proper perspective the fact that there are about 1,500,000 government employees, including local governments. I think that I cannot agree to any insinuation here that outside of probably two or three percent out of this 1,500,000, most of them, in what we call the "police" or "regulatory" agencies, that the great majority of government employees are already doing what this bill is talking about, especially when we come to the poor agricultural technician in the field, or the social worker that is handling a calamity, or the teacher that is in the barangay school up in the mountains.

Hundreds of thousands of our government employees, Mr. President, have enough educational background, have enough religious fervor, have enough conservatism and values of the past. So, I sort of cringe in my seat when I hear general statements being made to the effect that all government employees are corrupt, discourteous, or all government employees should be prescribed or given norms of conduct, which are already being followed by a lot of them.

In the Department of Natural Resources, which is one of the more corruption-suspected agencies, I can speak of the great majority of them, Mr. President, who even have religious activities within the department. They go to mass on Fridays; they have these dialogues and Bible reading studies all over the Department of Natural Resources.

So, let us just put that in proper perspective. It is probably a little more with those where we have to apply for licenses or where cases are filed. But to begin with, in the development agencies, as I said, the Department of Education, the social service agencies, and even within the regulatory agencies, I would like to put in perspective that out of 1,500,000 probably — even

if I were not to be conservative — not more than five percent really need a bill like this.

Thank you, Mr. President.

Senator Mercado. Mr. President.

The President. The Majority Floor Leader is recognized.

Senator Mercado. With due respect to the Assistant Majority Leader, may I make a statement as well on the bill we have discussed?

I agree that, by and large, our employees are generally observant of basic rules and regulations, and our laws, as it is.

The reason why I supported this bill, Mr. President, is that a realization that corruption does not hit a man like a thunderbolt; that he does not wake up one morning and tell himself, "I am going to steal one or two million pesos," that this is a matter of small compromises, small things. This grows until it becomes a norm, as it has been mentioned by Senator Laurel.

The way I look at it, the objective of the bill is to go also to specific areas where we can control a trend. If I may look at it in another way, that we control a deterioration of such behavior. We know we cannot legislate against behavior so easily. We are all subject to the economic conditions under which we live. But certainly, something has to be done now.

I do not agree that there is any insinuation in the bill that says that all our government employees are not honest. It is not true, Mr. President. But I feel it is a step that we can take. Gunar Myrdal, I believe, was one who mentioned the words "the folklore of corruption or the culture of corruption."

It is unfortunate, Mr. President, I feel that we have accepted this as a part of the existence of Government. And, maybe, what we can do is move towards making our people accept the opposite. And that the fact is that now, with the new Government, we are trying as hard as possible to show the example for a certain amount of transparency and openness, that we can truly have an honest Government. It is going to be hard, not only on the small employees but to those who are elected as well.

And we would like to disabuse the mind of any Member of the Senate, that we are, indeed, proceeding with the deliberations with the frame of mind that our people had become so corrupt, that they are beyond redemption. This is not true. But we have to accept the fact that corruption indeed pervades in our country today. Thank you.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 139

Senator Mercado. Mr. President, I move that we suspend consideration of Senate Bill No. 139.

The President. Is there any objection? [Silence] Hearing none, the same approved.

ADJOURNMENT OF THE SESSION

Senator Mercado. Mr. President, I move that we adjourn the session until four o'clock tomorrow afternoon.

The President. Is there any objection? [Silence] Hearing none; the session is adjourned until four o'clock tomorrow afternoon.

It was 7:06 p.m.

Oct. 14, 1987

Resolved by the Senate, the House of Representatives concurring, That the Legislative Calendar provided for in Concurrent Resolution No. 5, be amended to read as follows:

CALENDAR OF SESSION
July 27, 1987 – July 22, 1988

- 1. Start of First Regular Session July 27, 1987
- 2. Recess October [16] 30, 1987
[October 19, 1987]
November 2, 1987
- 3. Resumption of Session November 6, 1987
November 9, 1987
- 4. Recess December 18, 1987
December 21, 1987
- 5. Resumption of Session January 22, 1988
January 25, 1988
- 6. Recess March 25, 1988
March 28, 1988
- 7. Resumption of Session April 1, 1988
April 4, 1988
June 10, 1988
- 8. Recess (*sine die* adjournment)
June 13, 1988
July 22, 1988

(Sgd.) ORLANDO S. MERCADO
Senator

Senator Mercado. Mr. President, Senate Concurrent Resolution No. 8 and Senate Concurrent Resolution No. 5 are basically the same, except for the suspension which, instead of October 18, will be moved to October 26 so that we will hold sessions until the twenty-third of October.

I move that we approve Senate Concurrent Resolution No. 8.

APPROVAL OF SENATE
CONCURRENT RESOLUTION NO. 8

The President. Is there any objection? [Silence] We shall now vote on Senate Concurrent Resolution No. 8.

As many as are in favor of the resolution will please say *Nay*. [Several Senators: *Aye*] As many as are against, will please say *Nay*. [Silence] Senate Concurrent Resolution No. 8 is approved.

BILL ON SECOND READING
Senate Bill No. 139 – Ethical Standards for
Public Officials/Employees
(Continuation)

Senator Mercado. Mr. President, I move for the continuation of the consideration of Senate Bill No. 139, as reported out in Committee Report Nos. 32, 34 and 38. We are in the period of interpellations.

The President. I thought we were already in the period of amendments.

Senator Saguisag. Mr. President.

The President. Senator Saguisag is recognized.

Senator Saguisag. Thank you, Mr. President. My recollection was that with the second interpellation for the night by the distinguished Gentleman from Batangas that ended the period of interpellations. And then there followed statements by the distinguished Gentleman from Manila and the distinguished Gentleman from Quezon City.

So it seems to me that we are now in the period of amendments, unless there is someone who is moving for a reconsideration to step back to the earlier stage.

The President. Is there any amendment?

COMMITTEE AMENDMENTS

Senator Saguisag. Well, if there is no further interpellation, Mr. President, what I have tried to do for expediency was to submit to the members of the Body a clean amended copy. And for the record, may I read these amendments which can be considered as committee amendments which I reached upon in consultation with the Senate President who is the main author of this consolidated bill.

COMMITTEE AMENDMENTS

On page 1, Mr. President, may I call attention to the title. We are correcting the word "OFFICER". It should now read OFFICIALS, to be followed by: CREATING A SYSTEM OF INCENTIVES AND REWARDS, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS, to be followed by AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

And on line 8, we insert, after the word "efficiency" and before the word "candor", the word *DELICADEZA*.

May I move on, Mr. President, to page . . .

The President. We shall take up all the proposed amendments on page 1.

Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Saguisag. No committee amendment in relation to page 2, Mr. President.

The President. Is there any individual amendment?

Senator Saguisag. So may I move on, Mr. President, to page 3?

The President. If there is no individual amendment, we go to page 3.

Senator Saguisag. On page 3, Mr. President, lines 5 to 7 — this was the suggestion of the distinguished Gentleman from Batangas, who is not here now but we had an agreement on this

last night — we will insert, as subsection (J), the following: RELATIVES SHALL REFER TO ANY AND ALL PERSONS RELATED TO A PUBLIC OFFICIAL WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY.

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

Senator Gonzales. Mr. President, may I ask some questions in connection with Section 4 — Administration and Enforcement of this Act — to determine whether or not an amendment I have in mind would be presented?

Now, under this provision Mr. President, the primary responsibility for the enforcement and administration of this act shall rest upon the Ombudsman. Does this apply to the Senate and the House of Representatives? I would like to think that insofar as our own members and the congressmen are concerned, the House of Representatives should have the main and primary responsibility of enforcing ethical standards among their respective members. And that is why, Mr. President, we have a Committee on Privileges; we also have a Committee on Ethics. Now, it is axiomatic that a member of this Body could be tried only by his own peers insofar as matters do not amount to a crime. That is the purpose of this question, Mr. President.

Senator Saguisag. My own view without prejudice to any opinion on the part of the Senate President is that if we are to examine the history of the concept of the Ombudsman, he really has a very high standing in society, not because he can inflict penalties, but because of the very high moral standing that he may enjoy. As a practical matter, I am sure

that there is nothing that he can do in regard to our sovereign capacity. But where we here may be perceived by the public as behaving in a manner that may not be acceptable to the public, personally, I have no objection if the Ombudsman would call our attention to our certain shortcomings. So it is really more moral than anything else. For instance, in relation to disclosure requirements, we do have our own rules. It does not seem to me, however, that we are supposed to be exempted from any complaints that the public may address to the Ombudsman in this respect. What we may develop here over time is that the Ombudsman probably will just refer it to the Committee on Ethics. But if he will receive a complaint about the comportment of a certain member of the Congress, I personally do not see any inconsistency if he takes some action.

Senator Gonzales. My own conception in the history of the Ombudsman is that in reality, the concept of Ombudsman has started in the Scandinavian countries. The Ombudsman is really an arm of the legislature to check on the abuses of bureaucracy. That is why there is always a very close relationship between the Ombudsman and the legislature. The Ombudsman is supposed to be the arm of the legislature, so that a check can be done on the excesses of bureaucracy. That is the real origin of the Ombudsman, Mr. President. Of course, under our Constitution it has become a constitutional body.

Now, my problem, Mr. President, is: since this is mainly an act to provide for certain ethical standards and considering further that each House shall have the exclusive power to discipline its own Members for disorderly conduct, then we might actually be blurring the Constitution line — and that is the inherent and mandated power of each House to be the judge of what constitutes disorderly behavior

insofar as the Members of the Houses are concerned.

Senator Saguisag. I do not believe that that is the intent. This bill cannot add to the powers of the Ombudsman that are not otherwise contained in the Constitution. But I can see, for instance, a situation where it is required here that copies of the financial statements be lodged not only with the secretaries of the House concerned but also with the Ombudsman. It may happen that there may be some resistance on our part to disclose these statements; and I do not see anything that could prevent the Ombudsman first from calling our attention to our legal obligation of public disclosure; and then, if that is heeded, I do not see anything wrong either if the Ombudsman, after observing all the necessary courtesies, will on his own do what we ought to have done in the first place.

But to the extent that there may be any perception that we are overstepping the Constitutional boundaries, that certainly is not the purpose of this bill. And I am not so sure that in Scandinavia, where the concept started more than a hundred years ago, the Ombudsman was merely an arm of the legislature. What I know is that he is someone who is picked out from private life and that he is above everybody in the bureaucracy, in Sweden where it all started and spread to other Scandinavian countries, to New Zealand and to many other parts of the world.

There is now an Ombudsman in the press; there is an Ombudsman in the media and the universities. In fact, if I am asked, there is actually no relation between our Ombudsman and the Ombudsman in Scandinavia. In Scandinavia, they have no investigative or prosecutory powers. So aside from the name, there is actually no relationship at all between our own Ombudsman and the Ombudsman as classically conceived

where it all began in Sweden, maybe about 180 years ago.

Senator Gonzales. Precisely, I qualified my statement in saying the origin of the Ombudsman in Scandinavian countries was that concept. And I think that was the concept, although changes have been made in various countries. That is why I have said that here, we have elevated it to the position of a constitutional body. But at any rate, Mr. President, the Gentleman's own perception does not seem to be justified by the second sentence of Section 4 when it says:

The Ombudsman shall transmit all cases for prosecution arising from violations of any of the provisions of this Act to the Special Prosecutor for appropriate action: *Provided, however,* That the Ombudsman may institute such administrative remedies and disciplinary measures as may be warranted in accordance with law.

Senator Saguisag. But the law must always conform with the Constitution. This certainly cannot deprive us of the protective fortress that we have here. I can not be questioned by the Ombudsman about any thing I may state here in open debate, no matter what I say. So there is no attempt to withdraw the traditional constitutional or legal immunities that we otherwise enjoy.

Senator Gonzales. So, probably, would not this matter be clarified by an amendment that would say that provided, however, that the Senate and the House of Representatives shall have the exclusive power to discipline its Members for disorderly behavior?

Senator Saguisag. That is restating what the Constitution provides. I have no problem with that if the Gentleman so wishes. And may we ask the Senate President if I correctly stated the position of the main author of this bill, as its paternity is directly traceable to the Senate President? Personally, I have no objection.

The President. The Chair will appreciate if Senator Gonzales will speak to the microphone so I can own my paternity.

Senator Gonzales. Who really sired this bill, Mr. President?

The President. I think it is a joint act.

Senator Gonzales. Yes, because it is only in the legislature where we have plural paternities. We have of course fathers who think they are the fathers and yet they are not really so.

Senator Saguisag. Well, I think that like victory, this being a good bill, I would hope that many would try to claim paternity. It is only a bad bill or defeat that is an orphan.

GONZALES AMENDMENT

Senator Gonzales. I think Senator Guingona is asking who is the mother. [*Laughter.*]

Well, at any rate, the amendment will be in a form of a sentence on line 17, on page 3: AND NOTHING IN THIS PROVISION SHALL BE CONSTRUED AS A DEPRIVATION OF THE RIGHT OF EACH HOUSE OF CONGRESS TO DISCIPLINE ITS MEMBERS FOR DISORDERLY BEHAVIOR.

Senator Saguisag. As far as I am concerned, Mr. President, I think that improves the bill to avoid any misunderstanding later.

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Gonzales. Thank you, Mr. President.

Senator Saguisag. Thank you.

The President. Is there any further amendment on page 3?

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized.

Senator Enrile. Just for clarification, Mr. President.

On page 1, the term "public officer" includes "military personnel" which suggest to me that this specific mention of "military officer" does not seem to suggest to exclude "police officers."

Is it the intention not to mention "police officers" to be covered by this measure?

The President. What is the pleasure of Senator Saguisag?

Senator Saguisag. Well, if the intent is to insert . . .

ENRILE AMENDMENTS

Senator Enrile. May I suggest Mr. President, that on page 1, lines 18 and 19, we delete the word "the" after the word "including" and insert after the word "military" on line 19 and before the comma, the phrase AND POLICE PERSONNEL.

So that the phrase will say INCLUDING MILITARY AND POLICE PERSONNEL.

The President. Is there any objection? [Silence] The Chair hears none; the amendment is approved.

We are now on page 3. Is there any other amendment on page 3 of the clean version?

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized.

Senator Enrile. Anterior amendment, Mr. President. Going back to page 1, line 19, instead of the phrase, "however nominal," I submit, Mr. President, that we should change that to the phrase, REGARDLESS OF AMOUNT, so that it will read: receiving compensation REGARDLESS OF AMOUNT FROM THE GOVERNMENT.

The President. Is there any objection? [Silence] The Chair hears none; the amendment is approved.

Back to page 3. Is there any further amendment?

COMMITTEE AMENDMENT

Senator Saguisag. A small point on page 3, Mr. President.

The President. Yes.

Senator Saguisag. Line 25, after "Officers period" and dash, to insert open parenthesis capital letter "a," close parenthesis: ". . . Officers. - '(A)' ", because eventually, there will be a "(B)" and "(C)".

The President. Is there any objection? [Silence] The Chair hears none; the amendment is approved.

Senator Paterno. Mr. President.

The President. Senator Paterno is recognized.

PATERNO AMENDMENT

Senator Paterno. May I propose that whenever the word "officers" appears in this draft bill, it should be changed to OFFICIALS.

The President. Omnibus amendment. Is there any objection? [Silence] The Chair hears none; the amendment is approved.

Page 4.

COMMITTEE AMENDMENTS

Senator Saguisag. Page 4, lines 11 and 12, I tried to catch the spirit of the suggestion of the distinguished Senator from Manila, Laguna, and Nueva Ecija yesterday, and it now reads: THEY SHALL ENDEAVOR TO DISCOURAGE WRONG PERCEPTIONS OF THEIR ROLES AS DISPENSERS OF UNDUE PATRONAGE.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

Does Senator Gonzales have any comment on this particular amendment?

Senator Gonzales. None, Mr. President.

The President. Is there any objection?

[*Silence*] The Chair hears none, the amendment is approved.

Senator Gonzales. On page 4, line 23 . . .

COMMITTEE AMENDMENT

Senator Saguisag. I have an anterior amendment, a minor one. Line 19, between the words "not" and "dispense," if we may insert the word UNDULY.

The President. Is there any objection?

[*Silence*] The Chair hears none; the amendment is approved.

Senator Gonzales. On line 23 . . .

Senator Pimentel. Mr. President, anterior amendment.

The President. Senator Pimentel is recognized.

PIMENTEL AMENDMENTS

Senator Pimentel. Line 21, "consanguinity or affinity". Would it not be proper to limit the scope of the relationship by adding, let us say, "within the fourth civil degree," Mr. President?

Senator Saguisag. I think the intent here is, no matter how distant, we would not want undue dispensation of favors; but I am open to suggestions. If we are to mention a cutoff point, may we just adopt the constitutional standard of "within the fourth civil degree"?

Senator Pimentel. Yes, that is my proposal.

The President. Would that mean then, the Chair would like to ask, that we can unduly extend favors to those within the fifth or the sixth degree?

Senator Saguisag. That was what was bothering me in my initial response, Mr. President. It may be open to that interpretation which I do not think we really want.

Senator Pimentel. No. That was not the intention of this Representation, Mr. President, except that, probably, the idea of prohibiting

a public officer from extending favors to his relatives no matter how far a move is, I think, unfair or unjust, considering that in some localities, especially the small municipalities or the small barangays, it is difficult to see any person there who is not related to a public official.

It is in this context that I raised the issue, Mr. President.

The President. But with the addition of the word UNDULY. In other words, we can extend favors provided they are not unduly extended.

Senator Pimentel. If that is so, Mr. President, a public official may extend favors to relatives even within the fourth civil degree, even to his son using his public office provided it is not unduly extended.

The President. It should not be done.

Senator Saguisag. But the context of this, I thought, was, it might foreclose, let us say, the engagement of the services of those relatives who may be qualified.

In other words, to get anybody as an employee, given today's reality, is really something of a favor. In other words, if I am to get my own son, assuming that he is qualified, I am, in fact, doing him a favor. But if he is really qualified for the position, I think it would be an undue discrimination against one's own relative.

So that was the intent of this Representation when he suggested that the term of UNDULY be inserted in some place.

Senator Pimentel. So, Mr. President, my point is, therefore, we are providing a loophole here to the employment of relatives depending upon the vision or the view of the public official whether such an act is unduly or duly bestowed on the relative who may be his son, his brother or his sister.

Thus, Mr. President, I would really think that there is a need to somehow provide for . . .

SUSPENSION OF THE SESSION

The President. The session is suspended for a few minutes, if there is no objection. [*There was none.*]

It was 4:47 p.m.

RESUMPTION OF THE SESSION

At 4:49 p.m., the session was resumed.

The President. The session is resumed.

Senator Pimentel. Mr. President.

The President. Senator Pimentel is recognized.

PIMENTEL AMENDMENT

Senator Pimentel. After conferring with the leadership of this Chamber and with the Sponsor, I think we have arrived at a compromise by striking out the word UNDULY on line 19, page 4, Mr. President.

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

GONZALES AMENDMENT

Senator Gonzales. With the consent of the fathers of this bill, may we propose the following amendment:

On page 4, line 23. after "confidential" remove the period and add the following phrase:
OR AS MEMBERS OF THEIR PERSONAL STAFF WHOSE TERMS ARE COTERMINOUS WITH THEM.

The President. Is there any objection? Is there any comment? [*Silence*] The Chair hears none; the amendment is approved.

Senator Pimentel. Mr. President.

The President. Senator Pimentel is recognized.

Senator Pimentel. Mr. President, on Section (d), Political Neutrality, particularly line 27.

May I propose that instead of a blanket prohibition against the use of resources, we limit the concept to the use of government funds.

Mr. President, may I just be allowed to explain the point.

It is conceivable that a mayor or even a provincial governor who has a vehicle assigned to him and who will attend a political rally of a protege could be sued under this provision because that would be tantamount to his using a government resource, a government equipment, in support of a political protege when in fact it may only be tangentially so, Mr. President.

I would like to appeal to the Sponsors of this measure to kindly consider that when a person is occupying a political position, Mr. President, he can be subjected to a lot of harassments. This is not far-fetched because of the very nature of the political office; and while it is true that he probably could be conceivably acquitted but to go through the process of being harassed by suit, let us say, by the Ombudsman or by the Tanodbayan, will dissipate too much energies which could otherwise be used more productively.

The President. What is the pleasure of the father of the bill?

Senator Saguisag. As I understood it, Mr. President, if the resources would be in kind, would that be allowed? Because legal tender could easily be converted into basketballs, sacks of rice, etc. Is that what we want on this? In regard to vehicles, I have had no problem with that. I mean, Mr. Reagan goes to Alabama

to campaign; recently President Aquino went to Bacolod to campaign for us, etc. Traditionally, that has never been questioned because it can always be reconciled with some official purpose. But that if we will limit resources to funds, what are funds? They are only important because they are convertible into something tangible that can be used to influence unduly the decision of a voter.

Senator Pimentel. Then, Mr. President, the transference of the funds into something tangible can be the object precisely of prosecution under this provision; but when the Sponsor talks about Mr. Reagan or Mrs. Aquino using government vehicles, if that is true, nobody perhaps will dare accuse President Aquino for transgressing the law in this regard. But we go to a small municipality, a small province where the political struggle is so intense and very petty at times, we can really open the door for a lot of harassments in this regard, Mr. President.

Senator Saguisag. May we have some suggestions as to how this may be rephrased to accommodate the concern of the Gentleman?

PIMENTEL AMENDMENT

Senator Pimentel. My suggestion, Mr. President, subject to refinement of style and maybe even of content, is: on line 27, eliminate the words "the resources of". "They shall not use government funds" and insert the words FUNDS after "government" before the word "to".

I can cite, Mr. President, another example. Here is a mayor using a mayor's stationery writing a barangay captain: "Can we have a meeting in your barangay for purposes of introducing our candidate there?" That would be in effect already in transgression or in violation of this provision. So there are a thousand and one mischievous possibilities to this provision.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

SUSPENSION OF THE SESSION

Senator Maceda. I am in agreement with the statements of Senator Pimentel in view of which, could we have a one-minute recess?

The President. All right. The session is suspended, if there is no objection. [*There was none.*]

It was 4:55 p.m.

RESUMPTION OF THE SESSION

At 4:59 p.m., the session was resumed.

The President. The session is resumed.

Senator Pimentel. Mr. President.

The President. Senator Pimentel is recognized.

Senator Pimentel. After conference with the leadership of this Body, with the Sponsors and with the members of the Minority, I think the amendment has been accepted and we limit the prohibited area only to the use of government funds.

The President. On line 27 instead of "resources," it will just be FUNDS. Is there any objection?

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. I would just like to put on the record that we supported such a limited provision, because of the fact that there are already in other laws, including the Election Code, stricter provisions on the use of government resources directly or indirectly for illegal or improper purposes.

The President. So the amendment is approved. All right.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

Senator Gonzales. May I request a reconsideration of the approval of the amendment on line 23 page 4 to include MEMBERS OF THE COMMITTEE STAFF?

The President. Is there any objection to the motion for reconsideration? [*Silence*] The Chair hears none, the amendment is approved.

GONZALES AMENDMENT

Senator Gonzales. Mr. President, may I now move for the following amendment?

On line 23, page 4 after "confidential," delete period (.) and add the following phrase: OR AS MEMBERS OF THEIR PERSONAL OR COMMITTEE STAFF WHOSE TERMS ARE COTERMINOUS WITH THEIRS.

The President. It is clear that the amendment limits itself to the legislative committees.

Senator Gonzales. Yes, Mr. President.

The President. But in the Executive Department and in the Judicial Department there may be committees, and that will present some problems unless we limit these to legislative, personal and committee staffs.

Senator Gonzales. Would the Senate President have any objection if we qualify COMMITTEE with LEGISLATIVE?

The President. Yes, I will agree.

Senator Gonzales. "... OR AS MEMBERS OF THEIR PERSONAL OR LEGISLATIVE COMMITTEE STAFF WHOSE TERMS ARE COTERMINOUS. ...

Senator Saguisag. Mr. President.

The President. Senator Saguisag is recognized.

Senator Saguisag. We may be vulnerable to criticism that this is self-serving. This may be

open to a constitutional attack. So there may be a problem of invidious discrimination here in favor of ourselves. So I am a little concerned for a Body that is trying to set a high ethical standard, if an exception is being made in its favor by the very Body which is trying to set a high moral tone. I am personally not in favor of this, shall we say, kind of class legislation.

Senator Gonzales. So, Mr. President, instead of making this amendment, may we just put on the record, so that in the interpretation of this particular prohibition the intention of this Body would be clear.

Would the members of a legislative committee staff of a Senator or a Representative be considered as included in their personal staff?

Senator Saguisag. I would be comfortable with that because many of the things we take up here are confidential. We asked these people to represent us in executive sessions. So I think the intent should be spread upon the records that the members of the committee staff would be part of the personal staff of the legislator.

Senator Gonzales. In which case, Mr. President, I would reintroduce the original amendment, as follows: OR AS MEMBERS OF THEIR PERSONAL STAFF WHOSE TERMS ARE COTERMINOUS WITH THEIRS.

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Saguisag. Before we move to page 5, may I just go on record that I am associating myself with the reservation expressed by Senator Maceda earlier regarding line 27, that there is no attempt to derogate from the effects of the strictures contained in the Civil Service Law and the electoral laws.

The President. All right. Page 5. Any proposed amendment?

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. For the record, Mr. President, on line 18, I wonder whether it is necessary for the Gentleman with admitted leftist-leaning tendencies to define the meaning of the word "democratic way of life."

Senator Saguisag. Well, that may require an entire seminar. I think the Gentleman himself is more than adequate to lecture to us as to our common understanding, our common traditions as to what is the central point and what are the outer limits, of the kind of democracy that we are all fighting for. My concept of it is synonymous with the concept in the Constitution about a politically pluralist society.

Senator Maceda. So in that context, is a socialistic but democratic way of life acceptable?

Senator Saguisag. We have already adopted many features of socialism in this country: the social security system, the rent control law. I mean, these labels really ought not to bother us. Socialism is just really another facet of Christianity. The Benedictines who trained me believe in communism, they believe in common ownership of property. So these are the kind of peaceful options that should be available in a throbbing democracy.

The President. In other words, liberals and social democrats are included within the term.

Senator Saguisag. Or "progressive" which is really the term we are most comfortable with.

Senator Maceda. How about the term "authoritarian democratic"?

Senator Saguisag. That seems to be a contradiction in terms. It is self-cancelling in my view.

Senator Maceda. But as the Gentleman now sees, I just want to put all these things in the record, Mr. President. I was wondering whether the Gentleman could really give more specifics

on what are the excluded democracies and what are the included democracies, considering that almost every country now calls itself as adhering to the democratic way of life. I am giving the Gentleman a chance to lecture to this ignorant, non-ideological Member of the Senate.

Senator Saguisag. But that is really impossible. Much of what I know now, I really owe to the influence of the Gentleman from Manila who was one of the leaders and mentors of our team during the campaign. What I am saying is that any school of thought that does not advocate the use of violence is welcome in my perception of what democracy is all about. We have free trade in the market place of ideas. And I do believe and I can go on record that democracy in one sense will always prevail over Communism, from the Left, or over Fascism, from the Right because it is just so inherently superior.

The President. Constitutional authoritarianism is not included in the democratic way of life, I suppose.

Senator Saguisag. If it will not espouse the use of violence it is open to compete. And as Justice Douglas would say, it will remain unsold. No one will buy it in the the sense that it will never prevail considering our majoritarian traditions.

Senator Maceda. Let me go into specifics, Mr. President. Can Jose Maria Sison be appointed as a public officer under this concept?

Senator Saguisag. I would not know. But if the idea of national reconciliation is to allow everybody in and that there are no second-class citizens, in the same manner that Mr. Marcos took in Nilo Tayag, or Mr. Taruc, or leftists like Messrs. Cristobal, Ople, Corpus and the rest of them, there is nothing new in that because conversion is really one manifestation of the most sincere forms of making an act of contrition. There is some poignancy in recantation.

Senator Maceda. At this point in time, can Nur Misuari be appointed Chairman of the Autonomous Region for Mindanao under the requirements of this section?

Senator Saguisag. Maybe, under certain pre-conditions, because the concept of national reconciliation does not exclude anybody *a priori*. And we are appealing to all our brothers, no matter where they may be in the political spectrum, that it is pointless to continue hurting one another. And that as brothers and sisters within the same family, we can solve all our problems peacefully.

So if there will be, number one, renunciation of the use of violence, number two, renunciation of the concept of secession, and the like, we are willing, I guess, to talk with anybody.

Senator Maceda. So under those preconditions, Mr. President, if Colonel Gringo Honasan comes down and fulfills this renunciation, is the distinguished Sponsor willing to restore him fully to his position as a colonel in the Armed Forces of the Philippines?

Senator Saguisag. Well, he will first have to retract. He cannot say: "I am above the law; I make my own rules: I can kill 53 people; I can destroy maybe P350 million worth of property; I can injure 300 persons; I can destroy the economy and you cannot bind me by your rules." But if he will retract on those points and he will stop threatening the rest of us, why not? But I do not want him to come around killing 22 Senators, and then saying, "Why are the widows and the orphans complaining? We are above the law; we can kill anybody."

That, I cannot agree with. But if the military rebels will repent on what they have done, assuming that the perception they are not discouraging is not true, as I have said, we are willing to talk with anybody. But as long as anybody harms the rest of us, we have to explain to the son of Colonel Sanchez why his son no longer

has a leg. We have to explain to the widow of Pat. Esguerra why there no longer is any breadwinner in their family.

So we have to talk with a lot of people, not only with the perceived perpetrators of the acts that we have all condemned, but also with the victims.

So taking the long view, I hope that to use the words of our distinguished co-Senator from Cagayan, we would hope that the one concerned would rethink his position and that he should go back to the system where there are rules and there are norms. In other words, especially for lawyers like us and Senators, we must be very conscious always that we must, as sentinels, constantly patrol the borders of the permissible.

Senator Maceda. I like the last few words of the Gentleman — patrolling the borders of the impossible.

Senator Saguisag. Permissible.

Senator Maceda. Permissible. That sounds very, very nice, Mr. President.

Senator Saguisag. Thank you.

Senator Maceda. Going to the other side of the fence from a different perspective: Are public officers who are "*under the saya*" committed to the democratic way of life?

Senator Saguisag. Mr. President, point of order. Are we reopening the interpellation, or are we amending?

Senator Maceda. Well, I want to clarify certain things before I present any amendment, Mr. President.

SUSPENSION OF THE SESSION

The President. The session is suspended for a few minutes, if there is no objection. [*There was none.*]

It was 5:13 p.m.

RESUMPTION OF THE SESSION

At 5:18 p.m., the session was resumed.

The President. The session is resumed.

MACEDA AMENDMENTS

Senator Maceda. Mr. President, now to my amendment from lines 21 to 23, I would like to put a period after "military" and delete all the words thereafter, which read: ". . . and undertaking public hearings and consultations on key political administrative decisions except in cases of national emergencies," which will lead again to a discussion as to what are key, political, administrative, and national emergencies. This is really a matter of discretion for officials and should not be a norm or standard. These are discretionary matters.

The President. All right. I suppose on line 20, we insert the word AND before "upholding."

Senator Maceda. Yes, Mr. President.

The President. Is there any objection to the proposed amendment? [Silence] The Chair hears none; the amendment is approved.

Senator Maceda. Thank you, Mr. President.

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

Senator Pimentel. Mr. President, with the indulgence of the distinguished Gentleman from Tarlac, Senator Romulo, can I have an anterior amendment?

The President. I think Senator Romulo's amendment is anterior. We go back to the previous page.

Senator Romulo. Yes, Mr. President. On page 4 and that is "justness and sincerity." I feel, Mr. President, that when we talk of ethics, this is the very essence of ethics and particularly, the lines from 19 to 23. That is why when we talk of relatives, particularly our own kind, there is where we can be tested

really in justness and sincerity. There is a struggle in my own mind about this provision because this is where, if at all, we should be the strictest. And therefore, I would like to ask the Gentleman what his views are here before I suggest any amendment. How does it read now, Mr. President?

Senator Saguisag. Well, can we have the distinguished Gentleman from Mindanao rather, from Mandaluyong, read again. Because my notes are not so clear but the Gentleman from Mandaluyong added after "confidential," a comma OR AS A MEMBER . . .

Senator Gonzales. OR AS A MEMBER OF THEIR PERSONAL STAFF. . . .

The President. Why do we not read the entire sentence?

Senator Gonzales. The entire sentence, yes, Mr. President, would read like this. That is on page 3.

The President. That is on page 4, I think.

Senator Gonzales. THEY SHALL NOT UNDULY DISPENSE

Senator Saguisag. UNDULY has gone out.

Senator Gonzales. THEY SHALL NOT DISPENSE OR EXTEND FAVORS ON ACCOUNT OF THEIR OFFICE TO THEIR RELATIVES WHETHER BY CONSANGUINITY OR AFFINITY EXCEPT WITH RESPECT TO APPOINTMENTS OF SUCH RELATIVES TO POSITIONS CONSIDERED STRICTLY CONFIDENTIAL OR AS MEMBERS OF THEIR PERSONAL STAFF WHOSE TERMS ARE COTERMINOUS WITH THEIRS."

Senator Romulo. Mr. President, can I ask for a suspension of the session for a few minutes?

SUSPENSION OF THE SESSION

The President. The session is suspended for a few minutes, if there is no objection. [There was none.]

It was 5:22 p.m.

RESUMPTION OF THE SESSION

At 5:26 p.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President, I have posed a question to the distinguished cofather of this bill and, therefore, may I be given a reply?

The President. Senator Saguisag.

Senator Saguisag. Mr. President, personally I can live with either option. My own understanding of the term STRICTLY CONFIDENTIAL is broad enough to include not only the committee staff but the personal staff as well of the public official concerned. Of course, it is understood that STRICTLY CONFIDENTIAL includes but is not limited to those two classes.

Senator Romulo. Therefore, Mr. President, the provision or the statement now reads:

THEY SHALL NOT DISPENSE OR EXTEND FAVORS ON ACCOUNT OF THEIR OFFICE TO THEIR RELATIVES, WHETHER BY CONSANGUINITY OR AFFINITY, EXCEPT WITH RESPECT TO APPOINTMENTS OF SUCH RELATIVES TO POSITIONS CONSIDERED STRICTLY CONFIDENTIAL.

The President. Is there any objection? So this will include the personal staff.

Senator Gonzales. Point of order, Mr. President.

That would require a reconsideration of the amendment that has been approved.

The President. Yes. I think they are just clarifying it right now.

Senator Gonzales. Yes, Mr. President.

The President. Is there a motion for reconsideration?

1560

Senator Gonzales. May we ask a vote on this particular matter, Mr. President?

The President. Is there any motion for reconsideration?

SUSPENSION OF THE SESSION

Senator Romulo. May I ask for a suspension of the session?

The President. All right. The session is suspended for a few minutes, if there is no objection. [*There was none.*]

It was 5:29 p.m.

RESUMPTION OF THE SESSION

At 5:35 p.m., the session was resumed.

The President. The session is resumed.

We now go to page 5. Is there no individual amendment on page 5?

Senator Pimentel. Mr. President.

The President. Senator Pimentel is recognized.

PIMENTEL AMENDMENTS

Senator Pimentel. This will constitute an anterior amendment, on page 5, letter (f).

Senator Saguisag. All right.

Senator Pimentel. On Nationalism. It is just a matter of a suggested styling of the sentence. "Public officers shall be loyal to the REPUBLIC OF THE PHILIPPINES, promote the use of locally produced goods."

In other words, Mr. President, eliminate the words: "the people's" on line 13, up to "preference for the" on line 14.

The President. All right. Is there any objections? [*Silence*] The Chair hears none, the amendment is approved.

Wherever the term "public officers" appears, it should be read as PUBLIC OFFICIALS.

Senator Pimentel. Yes. May I proceed, Mr. President?

The President. All right.

Senator Saguisag. Same page?

Senator Pimentel. Yes, on line 16, letter (f) "pride of COUNTRY and the people," eliminate the words "the Philippines and Filipino" modifying "people." In other words: "pride of COUNTRY and the people." Because we are already talking of the Filipino people.

Senator Saguisag. Well, as long as that is understood that we are alluding to the Philippines. We understand that in a recent survey, many of our young men supposedly preferred to have been born in some other country.

Senator Pimentel. That is their problem.

The President. So is it accepted by the Sponsor, "pride of COUNTRY and the people"? Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Pimentel. Mr. President, on lines 19 and 20, may I just inquire from the Sponsor whether the intention here is to maintain accountability only through elected officials and representatives?

The idea is not very clear in this particular portion, Mr. President.

The President. The Gentleman would propose the deletion of the words "through elected officials and their representatives"?

Senator Pimentel. Yes, perhaps it would be better that way so that it will be broader in scope.

The President. Is there any objection? [*Silence*] The Chair hears none, the amendment is approved.

Senator Pimentel. Thank you, Mr. President.

Senator Saguisag. Mr. President.

The President. Senator Saguisag is recognized.

SAGUISAG AMENDMENT

Senator Saguisag. Perhaps, after the word "representatives," instead of "upholding," it should be just "uphold"; for parallelism, "shall commit" and then shall "uphold."

So line 17 should read: "Public officials shall commit themselves to the democratic way of life and values maintaining accountability to the people and uphold the supremacy of civilian authority over the military."

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Estrada. Mr. President.

The President. Senator Estrada is recognized.

Senator Estrada. G. Pangulo, ibig ko po lamang malinawagan tungkol dito sa line 26, letter (h). Ito po ay tungkol sa *Simple Living*.

"Public officials and their families shall lead modest lives appropriate to their positions and income. They shall not indulge in extravagant or ostentatious display of wealth in any form."

Wala po bang exception to the rule? Kamukha po halimbawa ng mga artista. Sa aming propesyon at kahit na pag naging public official ang isang artista ay kailangang magdamit ng medyo maganda. Kamukha po ng *americana* ni Senador Orly Mercado, nagkakahalaga po ng kinse mil iyan. [*Laughter*] Lagi po siyang nasa telebisyon kaya kailangan laging maganda ang suot niya. Hindi po ba masasabing display of wealth iyan?

Senator Saguisag. Pero iyan po naman ay commensurate sa pinagkukunan at posisyon ni Senador Orly Mercado. Kaya nauunawaan na rin ng kaniyang mga countless admirers kung bakit kailangang ganiyan siya kabikas magbihis.

So there is a relationship really to the position. Alam po natin na napakataas ang posisyon ng Majority Floor Leader. At napakataas din ang ranking niya sa eleksiyon. At saka po sa kinikita. Alam po nating limpak-limpak ang kinikita niya sa multina . . . [Laughter] Malaki po yata ang kinikita ng ating kaibigang Senador na taga-Quezon City.

So there is a relationship. It is expected, I think, of handsome actors, like the Gentleman from Mindanao and the Gentleman from Quezon City, to maintain a certain appearance or standard of living.

Senator Estrada. Correction, kung isasama ninyo ako, dahil if the Gentleman is referring to me. . .

Senator Saguisag. I am sorry. So I do not think that is covered, because that is part of the role of the expectation of the people diyan sa mundong ginagalawan ng dalawa nating kaibigang nabanggit.

The President. Samakatwid, hindi kasali ang mga artista rito? [Laughter]

Senator Saguisag. Sino ho ba ang tinutukoy ng Kgg. . .

The President. [laughing] Dito sa sentence na ito.

All right, that clarifies it.

Senator Estrada. Thank you, Mr. President.

Senator Saguisag. And anyway, this is already covered by the Civil Code really, I think under Article 25 about ostentatious display.

The President. Senator Pimentel.

Senator Pimentel. Yes, Mr. President.

On line 28 of page 5, regarding the indulgence of public officials and their families in extravagant or ostentatious display of wealth, would we not want also to prohibit the participation of public officials in extravagant or ostentatious display of wealth?

1562

The reason I raise this point, Mr. President, is that the wording of the proposal as of now refers only to an act of the public official concerned, or his family. But supposing he is always invited to very extravagant and ostentatious displays of wealth? I think that should also be discouraged, Mr. President.

The President. Yes.

Senator Pimentel. So his participation in those unwarranted displays of wealth especially in times of crisis should be discouraged, Mr. President.

Senator Saguisag. Do we have any suggestion?

Senator Pimentel. Yes, simply by adding: "They shall not indulge OR PARTICIPATE." In other words, insert the words OR PARTICIPATE between "indulge" and "in" Mr. President.

The President. What is the pleasure of the Sponsor?

Senator Saguisag. As far as I am concerned, it is accepted gladly, Mr. President.

The President. No objection to non-participation.

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

Senator Romulo. Just a question, Mr. President. When we are invited as a guest speaker and we do not know beforehand whether there will be an ostentatious display, now where does that put us since we are participating? I mention this, Mr. President, because in my own experience; we are being invited to some civic organization and I myself am appalled at the way they display ostentations. It is as if we are still in the colonial days. Well, that would put us in a dilemma. So I just want to pose that question — I do not know the answer.

Senator Pimentel. Now, Mr. President, we can dispose of that observation by simply put-

ting KNOWINGLY PARTICIPATE. In other words, knowing that it will be an ostentatious and extravagant display of wealth, he still goes ahead and participate.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Pimentel. May I explain further, Mr. President, just this point.

The President. Yes.

Senator Pimentel. Also, if we are really minded to enforce a rather strict regimen on the Members of this Body, then the Senator concerned or the public official concerned must get out of that situation even if it causes embarrassment to the host of the extravagant or ostentatious display of wealth, Mr. President.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. That last explanation, specifically of the Gentleman from Cagayan de Oro, raises a problem in my mind. I have no objections to the original, but the amendment to include participation, is it, therefore, the intention of the Gentleman from Cagayan de Oro that we shall say "no" to 80 percent of the weddings that we are asked to attend as sponsors? And what do we do if these people who invite us are our political leaders or especially, if they are our adopted fathers or contributors to our campaign? Shall we get out of the church and the wedding ceremony once we see that the gowns and the jewelries of the people in a wedding party are very ostentatious?

Senator Pimentel. Mr. President, may I make a brief reply to that point?

The President. Yes.

Senator Pimentel. Therefore, what is probably needed here is a definition of what we mean by "ostentatious or extravagant display of wealth." Because there are very broad concepts,

Mr. President, capable of a whole range of interpretation.

The President. I understand there is a similar provision in the Civil Code on ostentatious display of wealth. Am I correct there?

Senator Saguisag. That is my understanding. If my memory is true, it is Article 25. But it only authorizes the bringing of a suit. But my own view here is, let us take the case of a speaking invitation. If the public official concerned will avail himself of that forum to remind the listeners about the evils of extravagance and about discouraging it, I do not believe that is participating. So, why do we not avail ourselves precisely of that opportunity to give the proper ethical direction to those who invite us, admonishing them not to do it again, in view of the suffering of our people.

Now, the wedding situation is a little bit more difficult because he would not have a chance to speak publicly. But I would hope that anybody invited would somehow express some sense of displeasure. Because if we, in public office, will not set the standard against this evil of extravagance or ostentatious display at a time of misery and suffering then, who would? I know that that would be unpopular.

Senator Maceda. Mr. President, I understand perfectly the very good intentions of the proposal. But I am just worried that if we put in provisions which would really be more honored in the breach than in the compliance, then people will have a tendency to laugh at us and say: "Look, you passed a law like this that you shall not participate and everyday we see all of you Senators in very lavish weddings, birthday parties and anniversaries." This is part of our culture, Mr. President. But when our *Compadre* or *Comadre* or our neighbor invites us to a wedding, how can we say "no"? I have been in politics for 34 years; I have been looking up to now for a formula to say "no" to a wedding, and

I must confess I have not found the formula yet of how to say "no" to a wedding sponsorship.

Senator Saguisag. But I say no all the time.

The President. Anyway, Senator Maceda prefers the original: "They shall not indulge in extravagant or ostentatious display of wealth in any form."

Senator Maceda. I have no objection to that, Mr. President.

The President. All right.

Senator Pimentel. Mr. President, just this final point.

The President. Yes.

Senator Pimentel. If we do not include "participate" in this scope of the prohibited act, Mr. President, we are really blunting the effect of this prohibition. Because then the presence of public officials in extravagant and wanton displays of wealth will give rise to the impression of people that, in fact, he endorses that kind of an activity. And so, we are placed in a bind here if we limit simply the stricture only to the extent of indulging personally in extravagant or ostentatious display of wealth.

The President. All right. Let us now come to a decision.

Senator Maceda. Mr. President.

The President. Senator Pimentel is, therefore, proposing an amendment — THEY SHALL NOT INDULGE OR KNOWINGLY PARTICIPATE.

Senator Pimentel. Yes, Mr. President.

The President. Is there any further remark?

Senator Maceda. Mr. President, I am reminded of all the traditional objections to our fiestas. Now, we are thinking here only of ostentatious display of wealth in the urban setting but if we are going to a degree or forms of extravagant or ostentatious display, some landlord who,

1564

in a fiesta in a barangay, slays several pigs and several cows for the whole village to eat, that is an ostentatious display of wealth at that level. And so, I am afraid that again we are opening up ourselves to where we draw the line — the degree of ostentation is relative to the affair, to the place, and to the society involved.

The President. All right. Let us have a vote.

Those who are in favor of the original that they shall not indulge in extravagant or ostentatious display of wealth, please raise your right hands. [*Several Senators raised their right hands.*]

Those who are in favor of the amendment of Senator Pimentel — "they shall not indulge OR KNOWINGLY PARTICIPATE in extravagant or ostentatious display or wealth," raise your right hands. [*Few Senators raised their right hands.*]

All right, the original amendment won.

Let us go to page 6.

COMMITTEE AMENDMENT

Senator Saguisag. Committee amendment. Line 4, we insert the figure "18" between parentheses, after the word "eighteen."

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Angara. Mr. President.

The President. Senator Angara is recognized.

Senator Angara. Thank you, Mr. President. Would the Sponsor accept an amendment on the Committee on Awards in order to make the committee a more independent, non-partisan body? I am referring to the membership of the Executive Secretary of the Office of the President and the Secretary of Justice and in lieu of these two official, I would suggest the CHAIRMAN OF THE COMMISSION ON AUDIT and the PRESIDING JUSTICE OF THE

COURT OF APPEALS if the Sponsor is amenable?

The President. The CHAIRMAN OF THE COMMISSION ON AUDIT and the PRESIDING JUSTICE OF THE COURT OF APPEALS.

Senator Angara. That is right, Mr. President.

The President. What is the pleasure of the Sponsor?

Senator Saguisag. May we know the pleasure of the Senate President because this was the idea of the Senate President this morning. So personally, I have no objection to it.

The President. I have no objection to the CHAIRMAN OF THE COMMISSION ON AUDIT; I have a slight reservation with respect to the PRESIDING JUSTICE OF THE COURT OF APPEALS.

Senator Angara. What about the PRESIDING JUSTICE OF THE SANDIGANBAYAN, Mr. President? The idea, Mr. President, is to put officials on the committee who are either constitutional officials or occupying independent positions — independent in the sense that it is not under the control of influence of the Executive Department.

The President. Is there anyone who would like to comment on this?

Senator Saguisag. Maybe it is best to leave it at five.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

Senator Gonzales. May I suggest that instead of the PRESIDING JUSTICE OF THE COURT OF APPEALS, the CHAIRMAN OF THE CIVIL SERVICE COMMISSION.

Senator Angara. He is already here. He is already a member.

Senator Saguisag. So what we have now are five and that is maybe a good number — the

Ombudsman, the CHAIRMAN OF THE COMMISSION ON AUDIT, the Chairman of the Civil Service Commission and the heads of the two biggest government employees' association. There will only be five because we will not count in the Presiding Justice of the Court of Appeals, unless the Gentleman would want the number to be six.

Senator Angara. No, I think five would be sufficient because it is an odd number and that composition would more or less invest the Body with independence and non-partisanship, Mr. President.

Senator Saguisag. It is accepted, Mr. President.

Senator Angara. Thank you, Mr. President.

The President. So, how will it read now?

Senator Angara. So, it will read as follows: Line 11 — THE CHAIRMAN OF THE COMMISSION ON AUDIT then on line 12, delete the phrase, THE SECRETARY OF JUSTICE.

The President. And we continue the CHAIRMAN OF THE CIVIL SERVICE COMMISSION.

Senator Angara. Et cetera, yes, Mr. President.

The President. Is there any objection? [Silence] The Chair hears none; the amendment is approved.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. Anterior amendment. I thought we are still on page 5. I do not know whether this is a matter of form and the paragraph (h) under *Simple Living*, the last paragraph, last sentence, rather refers to public officers and obligation to disclose, et cetera, up to the end of the paragraph. I wonder whether this is meant to describe or to imply something about simple living or should not this be an entirely separate section altogether that applies to the whole bill? I am wondering why it is

placed only as a second, as a third sentence of the paragraph under *Simple Living*.

Senator Saguisag. I can just hazard the guess that it may be because there is mention of income so that the public can make a determination as to the modest style appropriate to the public officials' position and income. Those statements in my view will disclose to the public the position and the income of the public official concerned. So, I believe that they can stand together.

Senator Maceda. That is correct but the same rationale could apply to other sections of the bill just as well. Does the Gentleman not think that this should really be a separate provision somewhere and not just subordinate simply to the paragraph on *Simple Living*?

The President. Probably, in Section 7, it will have a relation.

Senator Saguisag. Maybe, we can transpose.

The President. We can transpose that to page 9.

Senator Saguisag. At the appropriate place when we get to page 9.

The President. All right, let us make a reservation on that.

Senator Paterno. Mr. President.

The President. Senator Paterno, I think, would like to. . .

Senator Paterno. Mr. President, a question on *Annual Incentives and Awards*. Is it the intention to include public officers up to, let us say, the level of the Cabinet here, or are we talking only of the rank and file employees of the Civil Service or officers up to a certain level?

Senator Saguisag. I think that there is a pronounced bias here for the rank and file because among the criteria are the obscurity of the position and the level of salary. So for my part,

I would like to spread that upon the record, that we would want the small employee favored. We are precisely talking of public recognition. The higher the official is, he, in a sense, already enjoys a measure of recognition.

Upon the other hand, no matter how high one may be, there may be something outstanding about the record or performance of anybody in government in a given year. So no one is automatically excluded. My own hope is that every year the one who will be recognized will be from the rank and file.

Senator Paterno. Is it the intention then to have several or just one, Mr. President?

Senator Saguisag. I suppose we can leave that to the five-man committee whether to begin with only an "employee of the year" and then in subsequent years, "employees of the year." I think that we should not really foreclose by certain very specific delimitations here, what may be better left to the judgment of the Committee that will implement this novel provision in this bill.

Senator Paterno. Nevertheless, Mr. President, the statements of the Sponsor on the record indicate the intent of this provision; and therefore would guide this committee.

Senator Saguisag. May I just go on record that this was really mainly again the work of the Senate President; and I hope that I have represented his position accurately.

The President. In my opinion, it will not preclude a Cabinet member from being recognized as a model employee.

On the other hand, we are trying to encourage the conferment of awards on the lowly employees. But if a Cabinet member has rendered distinguished outstanding service, he should be considered.

Senator Paterno. I think this exchange, Mr. President, leads to the suggestion that perhaps,

it would be in order to insert another provision here which will operate so that the standards will be promoted throughout the civil service.

And with the indulgence of the Senate President, may I read out a proposed insertion of a provision?

The President. Yes.

PATERNO AMENDMENT

Senator Paterno. This would be between lines 4 and 5 of page 6, Mr. President, as paragraph (B):

THE CIVIL SERVICE COMMISSION SHALL ADOPT POSITIVE MEASURES TO PROMOTE OBSERVANCE OF THE STANDARDS THROUGHOUT THE CAREER SERVICE INCLUDING INFORMATION PROGRAMS AND WORKSHOPS AUTHORIZING MERIT INCREASES BEYOND REGULAR PROGRESSION STEPS TO A LIMITED NUMBER OF EMPLOYEES RECOGNIZED BY THEIR OFFICE COLLEAGUES TO BE OUTSTANDING IN THEIR OBSERVANCE OF ETHICAL STANDARDS AND CONTINUING RESEARCH AND EXPERIMENTATION ON MEASURES WHICH PROVIDE POSITIVE MOTIVATION TO PUBLIC OFFICERS IN RAISING THE GENERAL LEVEL OF OBSERVANCE OF THE STANDARDS.

Along that line, Mr. President.

The President. Subject to refinement and style, is there any objection to the proposed amendment? [*Silence*] The Chair hears none; the amendment is approved.

SAGUISAG AMENDMENT

Senator Saguisag. Mr. President, on line 5, can we just re-mark letter (B) as letter (C)?

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Pimentel. Mr. President.

The President. Senator Pimentel is recognized.

Senator Pimentel. Mr. President; may I know on what line are we now?

The President. We are on page 6.

Senator Pimentel. Yes, so we can tackle any item on page 6, Mr. President.

The President. Yes.

Senator Pimentel. Now, the Committee on Awards here, Mr. President, is expected to review the performance of public officers and employees in all branches and agencies of government and establish a system of annual incentives.

This is a tall order, Mr. President, considering that the bureaucracy covers over a million people. If I am not mistaken, the latest figure is 1,250,000 roughly, Mr. President. Perhaps an additional sentence to this particular section may be to form line 32.

The Committee on Awards shall adopt its own rules to govern the conduct of its activities so that they can delegate the power to various local committees on awards, even on local government level.

The President. So how will the amendment be worded now?

PIMENTEL AMENDMENT

Senator Pimentel. Mr. President, I would humbly propose subject to refinement and style, that line 32 be added to read: THE COMMITTEE ON AWARDS SHALL ADOPT ITS OWN RULES TO GOVERN THE CONDUCT OF ITS ACTIVITIES.

Subject to style, Mr. President.

The President. All right. Is there any objection to that? [*Silence*] The Chair hears none; the amendment is approved.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

Senator Gonzales. On page 7, Mr. President.

Senator Saguisag. May I just make of record in passing, Mr. President, that in Singapore which has an outstanding meritocracy, one of the incentives that have worked is naming outstanding rank and file employees to the directorships of government-owned corporations.

Unfortunately, that collides with some bills that are before us now. That has proven to work so well in Singapore. Some lowly employees may be appointed to the DBP or such type and may be there is a correlation between the outstanding civil service in Singapore and allowing an employee to hold a second job.

Thank you, Mr. President.

GONZALES AMENDMENTS

Senator Gonzales. On page 7 line 3, Mr. President, a formal amendment is presented.

The President. Yes.

Senator Gonzales. Now, between the words "In" and "existing," insert THE CONSTITUTION AND, and then delete "and the Constitution."

I think in the enumeration the Constitution should take precedence over the existing laws.

The President. Very well taken.

Senator Saguisag. How will it read now, Mr. President?

Senator Gonzales. Now prescribed in THE CONSTITUTION AND existing laws.

The President. Is there any objection? [Silence] The Chair hears none; the amendment is approved.

Senator Gonzales. This is actually an inter-related amendment in respect of subparagraph

(b), unless there be anterior amendments, Mr. President.

The President. All right.

Senator Gonzales. Now, in Number 1 of subparagraph (b), line 12, between "1 period (.)" and "Accept," insert the following: OWN, CONTROL OR MANAGE OR, and then change capital letter "A" in "Accept" to a small letter "a." Thereafter, I would ask for the deletion of the entire paragraph 3, starting from lines 20 to 23.

May I explain my amendment, Mr. President?

The President. Can we have the amendment again, please.

Senator Gonzales. So, it would be: "OWN, CONTROL OR MANAGE OR accept employment as officer, employee, consultant, counsel, broker, agent, trustee or nominee in any private enterprise regulated, supervised or licensed by their office unless expressly allowed by law." That would call for the deletion of No. 3, Mr. President, because Number 3 is very, very dangerous — "Own, control or manage any private business or enterprise which may be affected."

I mean, theoretically, Mr. President, any business or enterprise may be affected by the functions of one's office. That is why I am limiting ownership, control and management of such enterprises only to those which are regulated, supervised or licensed by their offices.

The President. What is the pleasure of the Sponsor?

Senator Saguisag. I think that is an excellent improvement.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. I just have a little problem with that. It is not a problem. But I wanted to clarify whether such a restriction would apply to Members of the Cabinet; because while it may

not be regulated, supervised or licensed by their office directly, all these matters in any department go to the Cabinet as a whole for action. So I just wanted to clarify that particular . . .

Senator Gonzales. That is why, Mr. President, because of the over broadness of No. 3, I am limiting the prohibition only to those private business or enterprise which are regulated, supervised or licensed by their respective offices.

Now, answering the question directly, there is even a constitutional disqualification against Members of the Cabinet to intervene in the management of any entity which may be affected by their office.

Senator Saguisag. That covers the President, Vice-President, Members of the Cabinet and their Deputies and Assistants. They have to divest themselves. So this is superfluous. There is a separate rule for Cabinet Members found in Section 13 of Article VII. So nothing in the law can change that.

Senator Maceda. No. What I am trying to clarify is if one, for example, owns his job as Secretary of Foreign Affairs, technically, as Undersecretary of Foreign Affairs, let us bring it down to that. But if he is a Member of the Cabinet or a Member of the Council of Undersecretaries that is preparing the Cabinet agenda, while it is not directly under him, since he is a Member of the Cabinet or a Council of Undersecretaries to which anything of that nature might come for decision, or let us be very specific. If one owns Mondragon Industries and it has nothing to do with travel or the tourism business, but when matters go to the Cabinet in terms of incentives, taxes, that affect the entire business community is there an effect if he is a Member of the Cabinet even if he does not really manage it anymore?

Senator Saguisag. That is covered by Section 13 of Article VII and the law has nothing to do

with that. It is not the intent here to expand or limit that. There is a rule on Cabinet Secretaries and there is no attempt to expand or limit it because we can not do it. It would be unconstitutional.

So, the policy on the point was laid down by the people when they approved the Constitution last February 2. There is nothing here that adds to or subtracts from that.

The President. All right let us go back to the Gonzales amendment.

Is there any objection to the amendment of Senator Gonzales? [*Silence*]

Senator Saguisag. It is accepted, Mr. President.

The President. The Chair hears none; the amendment is approved.

Senator Gonzales. Then, Mr. President, as a consequence of the approval of that amendment, I move for the deletion of paragraph 3 on lines 20 to 22.

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Gonzales. Then on line 23, we change the numbering of the subparagraph to 3 instead of 4.

The President. Is there any objection? [*Silence*] The Chair hears none; the motion is approved.

Senator Gonzales. Line 23, delete after "relative" the phrase "within the fourth civil degree of consanguinity or affinity" on line 24, because of redundancy.

The President. That is already covered by the definition.

Senator Saguisag. That is already defined.

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Is there any amendment on page 7?

Senator Mercado. Mr. President.

The President. The Majority Floor Leader is recognized.

Senator Mercado. I would like to be clarified as regards line 16. No. 3 in our enumeration here states:

“Public officers during their incumbency shall not engage in the private practice of their profession unless expressly authorized by law and provided that such practice will not conflict or tend to conflict with their official functions.”

What are the professions that would need the expressed permission of law to be practiced?

Senator Saguisag. Off hand, they may be those that are covered perhaps, by government examinations. Profession, in the usual understanding, such as the law profession, the medical profession.

Senator Mercado. Would doctors be prohibited from practising their profession unless they have permission by law?

Senator Saguisag. I would hope so, because Cabinet Members and the others are prohibited from doing so. In other words, the idea is if one enters the public service, he is supposed to devote his time to the public service. Now if a doctor goes out at night because of an emergency, he can do it, but he is not supposed to charge; in which case, that is not a practice of profession. It seems to me that what is supposed to be covered by practice is that there is remuneration.

Senator Mercado. For example, if Senator Estrada is offered to make another movie, is he prohibited under this provision to appear in the movies because this is his profession?

The President. That is an art. [*Laughter*]

Senator Mercado. Does the Gentleman consider that as part of one's profession? Media or,

specifically, broadcasting is what we consider as our profession.

Senator Saguisag. I think one key word here is the term “private.” In other words, a lawyer can practice his profession publicly by being a legislator.

In the case of an actor, I have a hard time identifying what is private from public. So when we are private practitioners — I am not referring to the oldest profession, of course — I think it has a settled meaning in law and we are referring to doctors, lawyers, accountants but not to actors who are a privileged class.

Senator Mercado. I wanted that clarified because I am concerned about my Colleague.

Senator Saguisag. And incidentally, about his own self.

Senator Paterno. Mr. President.

The President. Senator Paterno is recognized.

Senator Paterno. Mr. President, on the same provision the expressed authorization in the Constitution for private practice of profession by members of the legislature is only with respect to the legal profession. The Constitution in Section 14 does not specifically authorize the practice of profession other than law. There are some of us here who might be engineers, accountants in Congress, doctors of medicine, and so on and the private practice of those professions is not specifically authorized by the Constitution. And therefore, the passage of this bill with this provision would bar us from practicing our own professions other than law. I wish to point that out because there would be a discrimination here in favor of the legal profession.

Senator Saguisag. My understanding is that this has always been the law — that one cannot even teach at night without getting the permission of one's superior. So, I think this merely

restates subject to correction, what has always been the case.

Senator Paterno. I agree on that, Mr. President, with respect to the members of the Civil Service. I am referring to the elected members of the legislature who are expressly authorized by the Constitution only to practice the legal profession. There is no prohibition against or authorization for practicing other profession.

Senator Saguisag. Under certain constraints.

Senator Paterno. Under certain constraints. But there is no bar on practicing one's profession other than law in the Constitution. However, with the passage of this bill there would be a specific prohibition against the practice of a profession other than law by members of this legislature and I wish to point that out, Mr. President.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

Senator Gonzales. I think it is not the practice of the profession that is prohibited but it is the practice of the profession that will conflict or will tend to conflict with their official function. So the practice of profession *per se* is not really prohibited. It is the conflict of that practice with the official functions of his office that is actually covered by this prohibition.

Senator Saguisag. It seems to me that both are required — express authorization and lack of conflict. The possible conflict of interest is always an unstated restriction. So here again, we are talking of ethical standards. We are shooting for something higher. If the intention here is to proscribe the private practice of one's profession, it seems to me that that should be encouraged. If there is a bias in favor of the legal profession I think that is something that we can discuss in the Angara report.

Senator Lina. Mr. President.

The President. Senator Lina is recognized.

Senator Lina. Thank you, Mr. President.

I agree with the observation made by Senator Paterno that this No. 2 now encompasses a broader prohibition. Not only are lawyers being prohibited from practicing their profession, but all kinds of professions are covered by this prohibition; and this will include Senator Mercado who is a mass media practitioner. Because the way it is worded, Mr. President, the general rule that is set here is public officials cannot engage in the private practice of their profession. That is the general rule. There is an exception. But for this exception to take place, two conditions must concur. One is that there must be a law expressly authorizing the private practice of a profession; and two, that such practice will not conflict or tend to conflict with their official functions. So, the prohibition, Mr. President, is all-encompassing, and this expands the prohibition stated in the Constitution.

Senator Paterno. Mr. President.

The President. Senator Paterno is recognized.

Senator Paterno. Mr. President, I believe that there are regulations in the Civil Service which authorize the head of office to allow the practice of a profession outside of office hours. Perhaps, if we change the words "by law" to "BY THE HEAD OF OFFICE," then this would satisfy the problem in which case with respect to the Senators to practice a profession other than law, we will have to get the permission of the Senate President.

The President. How will the amendment be worded?

Senator Paterno. In line 17, Mr. President, in lieu of the word "law," use the phrase THE HEAD OF OFFICE.

Senator Saguisag. But that may actually be a step backward. It seems to me that that is not the rule now. Because any head of office can do that. And as of today, it is only, I think, the Chairman of the Civil Service Commission and a few others who can authorize that. Because unlike in the case of councilors before who were just earning per diem for every meeting, I think the rule was that we have to commit ourselves totally to serving our constituents, at least eight hours a day. And that is why the exception was to get permission to work outside office hours. In other words, I am just afraid that we should not look as if we are relaxing at present a strict standard, because that could defeat the intent of the statute that we are proposing.

Senator Pimentel. Mr. President.

The President. Senator Pimente is recognized.

Senator Pimentel. Mr. President, I would want to volunteer this information that as of now, the state of things is that professionals in government in general are allowed to practice their profession at times by their respective heads. I can cite an example, that the COMELEC registrars of the various towns and provinces, some of whom or, perhaps, most of whom are lawyers. In between election, they really have nothing to do. So what is usually done is that they are allowed to practice their profession; and so are municipal health doctors. That I know for a fact that this is happening. And so if the intention of this provision is to really cut off all kinds of private practice, unless there is a law that allows it or unless it does not conflict with the duties of his office then, perhaps, the

better thing to do here is to insert the proviso that was introduced by Senator Paterno.

The President. Why do we not check since we have another item on our agenda today? We are going to have a caucus. Why do we not check all the laws on this subject so we can come up with a solution tomorrow?

Senator Saguisag. All that I want to say here is, precisely, if that was done before, it was because it was authorized by law, and that we can retain. But to expand and relax that rule may be a step backward, Mr. President. So we will check on that.

The President. Why do we not check on that and we can ask also the Chairman of the Civil Service Commission regarding the practice? We are going to have a caucus very shortly. I will entertain a motion.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 139

Senator Mercado. Mr. President, I move that we suspend consideration of Senate Bill No. 139.

The President. Is there any objection? [Silence] The Chair hears none; the motion is approved.

ADJOURNMENT OF THE SESSION

Senator Mercado. Mr. President, I move that we adjourn the session until four o'clock tomorrow afternoon.

The President. Is there any objection? [Silence] The Chair hears none; the session is adjourned until four o'clock tomorrow afternoon.

It was 6:25 p.m.

Oct. 15, 1987

Resolved by the Senate, To express, as it hereby expresses, its profound appreciation to Senator Raul S. Manglapus for his contribution in the establishment of a credible legislature and softening the impact of the transition to a democratic government, and its sincere congratulations on his appointment as Secretary of Foreign Affairs of the Philippines.

Senator Mercado. Mr. President.

The President. The Majority Floor Leader is recognized.

Senator Mercado. Mr. President, I move for the adoption of the Resolution.

The President. Is there any objection? [*Silence*] Hearing none, Resolution No. 53 is unanimously approved. [*Applause.*]

SUSPENSION OF THE SESSION

Senator Mercado. Mr. President, I move that we suspend the session.

The President. The session is suspended for a few minutes, if there is no objection. [*There was none*]

It was 4:39 p.m.

RESUMPTION OF THE SESSION

At 4:49 p.m., the session was resumed.

The President. The session is resumed.

BILL ON SECOND READING

Senate Bill No. 139 – Ethical Standards for Public Officials/Employees

(Continuation)

Senator Mercado. Mr. President, I move for the consideration of Committee Report No. 32 on Senate Bill No. 139, and Committee Report Nos. 34 and 38 on Senate Bill No. 104, which is entitled:

AN ACT TO ESTABLISH ETHICAL STANDARDS FOR ALL PUBLIC OFFICERS AND PRO-

VIDING PENALTIES FOR VIOLATIONS THEREOF.

We are now in the period of amendments. I move that we recognize Senator Saguisag.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Saguisag is recognized.

SAGUISAG AMENDMENT

Senator Saguisag. Thank you, Mr. President.

We ended last night on page 7. But may I just be allowed to step back, Mr. President, on page 5 for certain very minor changes? May I call attention to line 18. I have taken this up with the one concerned, the distinguished Gentleman from Cagayan de Oro, and he has no objection to the way it is phrased now: “pride of COUNTRY AND people.”

I also took up with him, Mr. President, the stylistic changes made as contained on lines 22 and 23, so that it now reads the way it does. There is a comma (,) after “values” followed by: “maintain THE PRINCIPLE OF PUBLIC accountability, AND MANIFEST BY DEEDS.” That is the end of the suggested correction, Mr. President.

The President. How will the whole sentence read now?

Senator Saguisag. Beginning on line 20, Mr. President, the whole sentence should read: “Public OFFICIALS shall commit themselves to the democratic way of life and values, maintain THE PRINCIPLE OF PUBLIC accountability, AND MANIFEST BY DEEDS the supremacy of civilian authority over the military. They shall at all times uphold the Constitution and put loyalty to country above loyalty to persons or party.”

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Saguisag. May we now move, Mr.

President, to page 7 and pick up where we left off last night.

Senator Gonzales. Mr. President.

The President. Yes, Senator Gonzales is recognized.

Senator Gonzales. On page 7, line 19, delete—

Senator Saguisag. Excuse me, Mr. President, anterior amendment.

The President. Senator Saguisag.

Senator Saguisag. On top of page 6, I have just been handed a corrected copy because two lines are missing. The sentence starts with THROUGHOUT and these are the two missing lines, which should appear above line 1. It should read as follows:

“(B) THE CIVIL SERVICE COMMISSION SHALL ADOPT POSITIVE MEASURES TO PROMOTE OBSERVANCE OF THE STANDARDS.”

And then THROUGHOUT will follow. That was a clerical oversight, Mr. President.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Saguisag. On line 15, Mr. President, as I recall it, we agreed last night that the Executive Secretary of the Office of the President will no longer be a member of the Committee on Awards.

The President. Yes. So that is deleted.

Senator Saguisag. We so suggest, Mr. President.

The President. All right.

Senator Saguisag. And going now to page 7, it seems to me that the first sentence, first line, THE COMMITTEE should not be separated from paragraph (c). So, it should not be the start of another paragraph. It should immediately follow after the word LIKE in the preceding page.

The President. Is there any objection? (Silence) Hearing none, the same is approved.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

GONZALES AMENDMENT

Senator Gonzales. On page 7, line 19, remove the parentheses before and after “law,” and between the words “by” and “law,” insert the phrase THE CONSTITUTION OR. And then thereafter, delete the word “and” so that the paragraph will now read as follows: “Engage in the private practice of their profession unless expressly authorized by THE CONSTITUTION OR law provided that such practice will not conflict or tend to conflict with their official functions.”

The President. Is there any objection?

Senator Saguisag. Mr. President.

The President. Senator Saguisag is recognized.

Senator Saguisag. Last night, we ended with the instruction given to me to find out the present state of the law on the point. And our quick research disclosed that under Memorandum Circular No. 17, dated September 4, 1986, issued by the Office of the President, government employees can practice their profession or accept private employment subject to the discretion of the head of the department or agency in accordance with Section 12, Rule 18 of the Revised Civil Service Rule.

My attention was called to item No. 24 of the Civil Service Law or Presidential Decree No. 807, Section 36, Subsection (b), and one ground for disciplinary action is: “pursuit of private business, vocation or profession without required permission by Civil Service rules and regulations.”

Senator Gonzales. There is no conflict, Mr. President. That is the law. I mean, the memo-

randum that was issued by the President is a memorandum issued pursuant to law. So, that is the law. There is no conflict.

Senator Saguisag. Law here will not refer merely to a statute but will cover a certain rule or regulation.

Senator Gonzales. Yes, a memorandum or a circular or an administrative order issued pursuant to the authority of law has the force and effect of law.

Senator Saguisag. Well, on that basis as long as that is on the record, we will —

Senator Gonzales. There seems to be an objection on the part of Senator Paterno.

The President. Before that, I would like to recognize Senator Guingona.

Senator Guingona. Mr. President, just to inquire from the Sponsor on the possible interpretation given by the Secretary of Justice concerning the constitutional provision on the exercise or practice of law, or rather, the prohibition against personally appearing for members of the Bar of Congress, because I understand there has been such an interpretation. May we get these bills on that, if the Gentleman has made such research?

Senator Saguisag. I would really refer to the study being made now by a panel, which I understand, is headed by Senator Angara. I do not think that the Senate has taken any position on it. We are awaiting the report of the panel. So, anything I say now may not mean much.

Senator Gonzales. At any rate, the approval of my proposed amendment will not, in any way, conflict with whatever interpretation that we may place upon it. It merely says, "in accordance with the Constitution or law."

Senator Guingona. Yes, because this expressly is subject to that interpretation, Mr. President.

Senator Gonzales. That is correct.

The President. I will now recognize Senator Paterno.

Senator Paterno. Mr. President, the problem that I see with the phrase "expressly authorized" is that in the case of the Members of the Legislature, Section 14 provides a limitation on the exercise of the legal profession by a legislator, but it does not expressly authorize Members of the Legislature to practice other professions. So, there is no expressed authorization in the Constitution for Members of the Legislature to practice their profession. And, therefore, if we observe the text which was suggested by our Colleague from Mandaluyong, the Members of the Legislature who are practicing their professions other than law would be barred from practicing such professions.

Senator Gonzales. No, my interpretation of that constitutional provision is that where there is no prohibition, there is authority. I mean, that is the rule. Really, there is freedom of action. Then the exception is, when it is prescribed or prohibited. So, if I take it then the objection of the Gentleman will not be to my proposed amendment but to the presence of the word "expressly." So that, probably, what amendment could be suggested by deleting the word "expressly" on line 19?

Senator Saguisag. It can either be removed or replaced by PROPERLY.

Senator Gonzales. I think, the deletion of the word "expressly" will be more consistent.

The President. Is Senator Gonzales proposing the deletion?

Senator Gonzales. Yes, Mr. President.

The President. All right.

Senator Maceda. Mr. President, I am precisely going to comment on the same. Relating this to line 13, the sentence really reads: "Public OFFICIALS during their incumbency shall not . . . engage in the private practice of their profession," etc.

In view of the remarks of Senator Paterno, one way of wording this can be this way: "Public OFFICIALS during their incumbency shall not . . . engage in the private practice of their profession WHERE PROHIBITED BY THE CONSTITUTION OR BY LAW."

That is more in line with the explanation of Senator Gonzales. Where there is no prohibition, then the situation is that they are allowed.

Senator Gonzales. But there is also "Public OFFICIALS during their incumbency shall not . . . engage in the private practice of their profession unless authorized by THE CONSTITUTION OR LAW and provided that such practice will not conflict or tend to conflict with their official functions."

Senator Maceda. If we want it to be wider in scope, I am suggesting the other way around which is: "shall not . . . engage in the private practice of their profession WHERE THEY ARE PROHIBITED BY THE CONSTITUTION OR LAW."

Senator Saguisag. But, Mr. President, if it is already prohibited, certainly, it can not be done. This maybe a better way of putting it.

Senator Gonzales. I think, the language as used now —

The President. All right. We will go back to the proposed amendment of Senator Gonzales, that is, "Engage in the private practice of their profession unless authorized by THE CONSTITUTION OR LAW provided that such practice will not conflict or tend to conflict with their official functions."

Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Mercado. Mr. President.

The President. The Majority Floor Leader.

Senator Mercado. Mr. President, will the Sponsor agree to an inclusion of another paragraph in Section 3 defining the term "profes-

sion" to read as follows: PROFESSION SHALL MEAN A CALLING OR UNDERTAKING CONSTITUTING A MEANS OF LIVELIHOOD THE AUTHORIZED PRACTICE OF WHICH REQUIRES THE PASSING OF LICENSURE EXAMINATIONS CONDUCTED BY THE GOVERNMENT.

I am proposing this for an easy interpretation especially as regards other professions or other callings which may be practiced while a person is in the government.

Senator Gonzales. My objection to that, Mr. President, is that in the field of business, it is there where usually the conflict of interest arises. I mean, a public official or even a Senator or Member of the House of Representatives may actually engage in business, although he has not passed any government examination. And so, therefore, he would not be exercising or conducting a profession or an occupation. I think, that is absurd.

Senator Mercado. Mr. President, is the good Senator proposing an amendment to — Is he objecting to this?

Senator Gonzales. I am saying, Mr. President, that by giving that definition to profession, well — May we ask for a suspension of the session?

SUSPENSION OF THE SESSION

The President. The session is suspended for a few minutes, if there is no objection. [*There was none.*]

It was 5:03 p.m.

RESUMPTION OF THE SESSION

At 5:05 p.m., the session was resumed.

The President. The session is resumed.

Senator Mercado. Mr. President, in view of the explanation of the Sponsor, I am withdrawing my amendment.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Just for clarification. Therefore, a legislator who incidentally is also a newspaper or a columnist or a radio or television commentator need not fall under this prohibition.

Senator Saguisag. Mr. President, I am not sure whether I should comment. I have a weekly column myself, but anything that encroaches on press freedom is always a suspect. It is one of the preferred freedoms, so that may be just unconstitutional.

The President. So, writing a column does not fall under the prohibition?

Senator Saguisag. I leave it to the Body because I am involved. I think it is directed to me by the distinguished Gentleman.

Senator Guingona. No, it is not directed to him, Mr. President. It is directed to all of us because we may have potential time to engage in such.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

Senator Gonzales. I think it is not the private practice of a profession per se that is prohibited here. It is prohibited only when it conflicts with the performance of official functions. I think that is the gravamen.

Senator Saguisag. My own approach, Mr. President, is that what we are trying to do here is to set legal standards. But these are the questions which I thought I should take up at greater length in the Ethics and Privileges Committee because I am putting together a code of ethics. In other words, not in terms of duties, but in terms of aspirations which should be higher; especially if the profession concerned is journalism. Because, then, I would doubt the consti-

tutionality of anything that encroaches on that freedom if that is the example given.

The President. In itself, therefore, are we settled that the practice of a legislator writing a column per se does not fall within the prohibition?

Senator Guingona. Mr. President, just for clarification.

The President. Yes.

Senator Guingona. A legislator was, before election, a businessman. When he is elected, he continues to be a businessman because it does not, in his judgment, conflict with his functions as a legislator. Would that fall under the present prohibition?

The President. Unless there is a conflict of interest.

Senator Guingona. Yes.

The President. We have to consider the conflict of interest provisions.

Senator Guingona. Yes, Mr. President. I am assuming that, in his view, there is no conflict of interest.

The President. Not only from his view but from the objective point of view.

Senator Guingona. Yes, from the objective point of view. Is that our understanding, Mr. President?

The President. Yes.

Senator Saguisag. Mr. President.

The President. Senator Saguisag.

Senator Saguisag. As I stated earlier, under the Civil Service Law, the pursuit of private business without the required permission is a ground for disciplinary action. So, that should be treated separately in the Civil Service Law. It is here. So, if there should be an amendment to that that should be the subject matter of a separate list.

The President. But the inquiry of the Gentleman is with respect to the Members of Congress.

Senator Saguisag. I think that the spirit of the Civil Service rules should apply to everyone. We will find it very hard to defend before the Supreme Court why we are treating ourselves differently from a rank and file employee. We are better paid; we are more powerful. Are we trying to set ethical standards here or setting up our own private preserves?

SUSPENSION OF THE SESSION

The President. The session is suspended for a few minutes, if there is no objection. [*There was none.*]

It was 5:09 p.m.

RESUMPTION OF THE SESSION

At 5:11 p.m., the session was resumed.

The President. The session is resumed.

Senator Gonzales is recognized.

Senator Gonzales. On page 8, if there is no other amendment, we shall proceed to page 7.

SAGUISAG AMENDMENT

Senator Saguisag. Just a small point. We will make a difference on line 21, that instead of "and," it should be OR to stress that it is a separate act and is enough to make for a violation. So, one line 21, "and" is to be changed to OR, Mr. President.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Gonzales. On page 8, Mr. President.

LINA AMENDMENT

Senator Lina. Mr. President, anterior amendment, on page 7, lines 22 to 24.

Mr. President, I move to amend this particular provision by deleting the word "relative" on line 22, and in lieu thereof, place the word ANY PERSON so that the whole sentence

would read: "recommend ANY PERSON to any position in a private enterprise which has regular or pending official transaction with their office."

Mr. President, the intention is that the person or the entity to which the recommendation is going to be sent must not be placed under undue pressure from the recommending authority or public official. So, whether it is a relative, it gives the recommending authority undue leverage over the appointing authority.

The President. What is the pleasure of the Sponsor?

Senator Saguisag. The amendment is accepted, Mr. President.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Page 8.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

GONZALES AMENDMENT

Senator Gonzales. On line 5, change the word "and" to OR.

May I explain the amendment?

The President. All right.

Senator Gonzales. An information may have been received by a public official that is valuable and it came to his knowledge by reason of his official position. But at the same time, it is not made available to the public, although it is not officially classified.

And so, therefore, I feel that the word "and" should be changed to OR.

The President. It will make it stronger.

Senator Gonzales. Yes, Mr. President.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Gonzales. On line 16, between

“GIFTS” and “FROM,” add the words “OR GRANTS,” because most of these gifts are not really called “gifts.” They are called “grants,” Mr. President.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Angara. Mr. President.

The President. Senator Angara is recognized.

ANGARA AMENDMENT

Senator Angara. Thank you, Mr. President.

On lines 22 and 23, may I suggest that the phrase EDUCATIONAL SCHOLARSHIP be substituted with the phrase SCHOLARSHIP FELLOWSHIP GRANTS. The idea, Mr. President, is not to limit the grants or scholarship to education because strictly educational scholarship technically means undergraduate studies. But when we say SCHOLARSHIP FELLOWSHIP GRANTS, it is more encompassing. The reason for this, Mr. President, is that for many teachers in the state colleges and universities and for many public officials in the bureaucracy, especially the young and middle executives, grants from foreign governments, either by way of scholarship, fellowship, and similar gifts, are about the only mode of career development for them. And so, my suggestion is to expand the coverage of this phrase and not restrict it to educational scholarship. I think, this is in line with the spirit of the Act.

Senator Saguisag. The amendment is accepted, Mr. President.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Any other amendment on page 8? We go to page 9.

GONZALES AMENDMENT

Senator Gonzales. Page 9, Mr. President.

The President. Senator Gonzales is recognized.

Senator Gonzales. On line 1, delete the word “gifts” and on line 2, delete the word “of” and between “travel” and “or”, insert the word GRANTS. So that it would read: “a public official or employee may accept travel GRANTS or expenses for travel.”

Senator Saguisag. Travel grants or expenses, so travel would be repeated.

Senator Gonzales. And “expenses.”

Senator Saguisag. It seems that we have to retain “travel” after all, because “taking place” qualifies the word. So that it would now read: “may accept travel grants and expenses for travel” and the word “gifts” is deleted.

Senator Gonzales. That is correct.

The President. All right. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Angara. Mr. President.

The President. Senator Angara is recognized.

ANGARA AMENDMENT

Senator Angara. On line 13 to line 17, Mr. President, I suggest that the whole paragraph be deleted and in lieu thereof, the following be inserted: NOTHING IN THIS ACT SHALL BE CONSTRUED TO RESTRICT OR PROHIBIT ANY EDUCATIONAL, SCIENTIFIC AND CULTURAL EXCHANGE PROGRAMS NOW EXISTING AND WHICH MAY HEREAFTER BE ESTABLISHED.

Again, Mr. President, the intent of this provision is not to depart from the intent of the bill, but to just clarify the coverage. As we know, there are ongoing as well as future scientific, educational and cultural exchanges being struck by our Government with other foreign government and I understand that the intent of

this bill is not to impair or prohibit those exchanges at all.

The President. So how will the paragraph read?

Senator Angara. The paragraph will now read: NOTHING IN THIS ACT SHALL BE CONSTRUED TO RESTRICT OR PROHIBIT ANY EDUCATIONAL, SCIENTIFIC AND CULTURAL EXCHANGE PROGRAMS NOW EXISTING OR WHICH MAY HEREAFTER BE ESTABLISHED. This will now take the place of lines 13 to 17.

Senator Saguisag. Mr. President, as to existing programs, no problem with those. I am not sure whether we are ready to give blanket authority to similar programs which may, after all, be covered by the preceding sections. We may want to reserve the authority to have a look at a program that in the future may affect a country that may be hostile to us and which may be trying to get our young people to believe in another ideology. So, that phrase disturbs me a bit. Existing programs, I have no problem with those. But I think most of the programs that we already have in mind should have been covered by the preceding paragraphs. But to abandon or to give immediately our consent to future programs with countries whose designs we may not be sure of, I think, is something we should have a say on, instead of giving the authority now.

Senator Angara. Mr. President, I can appreciate the point of the Sponsor. But on the other hand, if we do not give advance permission to future education, scientific or cultural exchanges now, then in a way, we are restricting the negotiation of those exchange agreements. And, I think, that will do tremendous damage to the practices of educational institutions, even to the practice and custom of our Government if we do not give that advance permission.

Senator Saguisag. Mr. President, I am not

sure if there is an existing negotiation, let us say, with South Africa that we would gladly accept such a grant from a country that practices blatant racial discriminations. So, that is the kind of extreme case that I would not want to give our authority as a Congress in advance.

Senator Angara. But Mr. President, in the case of South Africa — I know it is an extreme case and, perhaps, it would not prove the principle — our own laws prohibit us from trading as well as negotiating with South Africa.

But say, Mr. President, that the foreign office enters into an exchange or a cultural, scientific and educational exchange with East Germany, are we now saying that before our Foreign Affairs Department does so, it must first seek the consent of the Senate? I would think that such a requirement would unduly hamper our cultural, educational and scientific exchange, Mr. President.

SUSPENSION OF THE SESSION

The President. If there is no objection, the session is suspended for one minute. [*There was none.*]

It was 5:24 p.m.

RESUMPTION OF THE SESSION

At 5:25 p.m., the session was resumed.

The President. The session is resumed.

Senator Angara is recognized.

Senator Angara. Thank you, Mr. President.

This amendment, in lieu of lines 13 to 17, now reads as follows: NOTHING IN THIS ACT SHALL BE CONSTRUED TO RESTRICT OR PROHIBIT ANY EDUCATIONAL, SCIENTIFIC AND CULTURAL EXCHANGE PROGRAMS, NOW EXISTING OR WHICH MAY BE ESTABLISHED THEREAFTER, SUBJECT TO NATIONAL SECURITY REQUIREMENTS.

Senator Saguisag. The amendment is accepted, Mr. President.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

The President. Is there any further amendment on page 9?

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized.

Senator Enrile. May I request, Mr. President, that we go back to page 8, lines 23 to 26, on the clause "or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the Philippines."

Mr. President, it comes to my mind that this could be a very large loophole for circumventing the intent and purpose of this measure. I doubt whether there would be any gift that when not accepted by our foreign government dignitaries would cause embarrassment or adversely affect the foreign relations of the Republic. In fact, without this phrase, it is, probably, better to notify foreign visitors that acceptance of gifts by our public officials is discouraged.

I am just wondering whether the Proponent of this measure would agree to the deletion of this portion of the proposed measure.

Senator Saguisag. I can accept the amendment.

The President. So, we delete from what line to what line?

ENRILE AMENDMENT

Senator Enrile. On line 23, beginning with the words "or when it appears," I move that we delete the clause "or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the Philippines."

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Saguisag. In that case, Mr. President,

lines 27 to 30 should also go out because they are related.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

SAGUISAG AMENDMENTS

Senator Saguisag. On page 9, Mr. President, the No. 2 in parentheses should be three small "i's" instead of No. 2.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Saguisag. On line 9, before the word "the," may I suggest that it be numbered open parenthesis small "v", close parenthesis.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Saguisag. On line 13, before the amendment proposed by Senator Angara, put a small Roman numeral "v" and enclose it in parentheses.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Mercado. Mr. President.

The President. The Majority Floor Leader is recognized.

Senator Mercado. Still on page 12, line 24.

Senator Saguisag. May I just make of record, Mr. President, that pursuant to the suggestion made by Senator Maceda yesterday, the phrase from Section 5 (h) has been transferred to where it is now, and it is now lines 18 to 22. This was the reservation made last night.

That is all, Mr. President.

The President. All right.

Senator Mercado. Mr. President.

The President. Senator Mercado is recognized.

MERCADO AMENDMENT

Senator Mercado. Mr. President, as regards

lines 24 and 25, I am proposing after the word "except" the deletion of the words "those who serve without compensation."

Mr. President, the reason for this is I feel that in a situation wherein we have in a government office somebody who may not be receiving compensation but is appointed to a certain position, there could be possibilities of graft. We have heard of volunteers who actually are not within the control.

So I suggest, Mr. President, that those who assume a government office, even if they are without compensation, must file a certificate of assets and liabilities.

Senator Saguisag. Mr. President, the intent here is, from time to time, we call on distinguished elderly senior statesmen or citizens who may given an assignment of one week, one month or one year. There is always a natural concern for privacy. Some people may not want to let their friends or relatives or the general public know how much they own. And that may deter a peace negotiator, a special ambassador if, on top serving the country for nothing, he still has to go through all this paper work.

So I am open to that, but that was really what motivated this Representation in making an exception of that nature.

SALONGA AMENDMENT

The President. Would the following compromise be acceptable, EXCEPT THOSE WHO SERVE IN AN HONORARY CAPACITY.

Senator Mercado. That would be acceptable, Mr. President.

The President. All right, is there any objection? [Silence] Hearing none, the same is approved.

Senator Gonzales has an amendment?

Senator Gonzales. My amendment is on page 11, Mr. President.

The President. Is there any other amendment on page 9? [Silence] Then we go to page 10.

Senator Tañada. Just a point of clarification, Mr. President, before I propose my amendment.

On page 10, lines 14 and 15, which reads: "Husband and wife who are both public officials may file the statements required jointly or separately."

Now if they should file a joint statement, where would such a joint statement be filed?

Senator Saguisag. It may depend as to where he or she may fall, reading lines 19 to 30 or page 10 to lines 1 to 3 of the following page. In other words, it depends on the position.

The President. If they are constitutional officials, they should be filed with the National Office of the Ombudsman.

Senator Tañada. I see.

The President. If the wife is a regional official, she will fall under subsection (3), lines 26 to 28.

Senator Tañada. I see. Then I will move on to lines 25 and 26.

Senator Saguisag. Mr. President, anterior committee amendment.

The President. Yes.

SAGUISAG AMENDMENT

Senator Saguisag. On line 5, we will strike out "[and]"; and on line 8, THREE instead of "[two]".

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Tañada.

TAÑADA AMENDMENT

Senator Tañada. Yes, Mr. President. On lines 23 to 24, I would propose that instead of "All

justices and judges, with the Office of the Chief Justice of the Supreme Court," I would propose that in the case of justices, with the Clerk of the Supreme Court; and in the case of judges, with the Court Administrator. So that lines 23 to 24, referring to that subject, Mr. President, would read as follows: JUSTICES, WITH THE CLERK OF THE SUPREME COURT; JUDGES, WITH THE COURT ADMINISTRATOR;

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Saguisag. Are we retaining the words "all justices?"

Senator Tañada. Just "justices."

Senator Saguisag. So, we are deleting "all."

Senator Tañada. Yes.

May I know, Mr. President, if the word "regional" appearing on page 10, line 26, after the number 3, refers only to officers of the regional autonomous regions or would the word "regional" also refer to officials of the national government assigned in the regions, such as regional directors?

Senator Saguisag. I suppose the practical interpretation of this is that this is connected to the assignment of the Deputy Ombudsman. So, my own interpretation is that those in Luzon should file theirs with the Deputy Ombudsman for Luzon; those from the Visayas, with the Deputy Ombudsman for the Visayas, and so on, up to Mindanao, and not in accordance with the 13 regions because we do not have that many Ombudsmen.

Senator Tañada. That is regardless of whether they are regional officers of the regional autonomous regions or they are regional officers belonging to the national government.

Senator Saguisag. My own view is that since the Deputy Ombudsmen anyway are really under the national Ombudsman, the intent of

this is just for administrative convenience. Because eventually, the Deputy Ombudsmen are accountable to the national Ombudsman. So, it is just for gathering those documents. It is just more convenient to file it in one's region instead of having to do it in Manila, if one is in Mindanao.

The President. Anyway, I suppose this will be spelled out by the Ombudsman in the implementing rules and regulations.

Senator Tañada. Yes. And this would cover both elective and appointive regional officers.

Senator Saguisag. Both, for the same reason that it is just more convenient to file it in one's region instead of having to do it in Manila. So, this serves also in a way the cause of decentralization.

Senator Tañada. Thank you, Mr. President.

The President. All right.

Senator Saguisag. May I just ask, if I may, instead of asking for a recess, whether our intent here, Mr. President, is not to require, as to the regional and local officials, the disclosure of business interest and financial connections?

The President. Yes.

Senator Saguisag. All right. In other words, line 30, when we say "SHALL FILE THE SAME," we refer to the immediate antecedent, statement of assets, liabilities and net worth.

The President. Yes.

Senator Saguisag. Thank you, Mr. President.

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

ROMULO AMENDMENT

Senator Romulo. Mr. President, on page 10, after line 13, would the Gentleman agree to the following insertion, and the paragraph would read: SAID PUBLIC OFFICERS SHALL LIKEWISE FILE UNDER OATH WITHIN 60 DAYS

UPON ASSUMPTION OF OFFICE THEIR STATEMENT OF ASSETS, LIABILITIES, AND NET WORTH FOR THE PERIOD PRIOR TO THE YEAR THEY FIRST ASSUMED ANY OFFICE IN THE GOVERNMENT OR GOVERNMENT-OWNED OR CONTROLLED CORPORATION.

Senator Saguisag. May we have that repeated, please?

Senator Romulo. SAID PUBLIC OFFICERS SHALL LIKEWISE FILE UNDER OATH WITHIN 60 DAYS UPON ASSUMPTION OF OFFICE THEIR STATEMENT OF ASSETS, LIABILITIES, AND NET WORTH FOR THE PERIOD PRIOR TO THE YEAR THEY FIRST ASSUMED ANY OFFICE IN THE GOVERNMENT OR GOVERNMENT-OWNED OR CONTROLLED CORPORATION.

Senator Saguisag. I am not sure how that will operate. I think that is how it operates now. When I filed my statement of assets and liabilities last July, that really covered the period ending December 31, 1986. But if the idea is to clarify and stress it, I accept it.

The President. May be Senator Romulo can explain his proposal.

Senator Romulo. Mr. President, the purpose of this is to get such public official to submit under oath as stated in this statement of assets, liabilities and net worth for the period prior to the year he first assumed any office in the government including government-owned or controlled corporations or agencies.

Senator Saguisag. I can see the merit in it, except that I am not sure whether that is really the way it is worded now in Republic Act No. 1319. But since, obviously, it is a very good proposal, for comparison purposes, I am accepting it, Mr. President.

Senator Romulo. Thank you, Mr. President.

The President. Except that the term "public

officers" should be OFFICIALS in this new version.

Senator Romulo. "Public officials."

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Any other amendment on page 11?

Senator Angara. Mr. President.

The President. Senator Angara is recognized.

COMMITTEE AMENDMENTS

Senator Saguisag. I will propose the committee amendments first, Mr. President.

On line 1, may we just add the word AND after "ombudsman;"

The President. Is there any objection? [Silence] The Chair hears none; the same is approved.

Senator Saguisag. Lines 4 to 8 contain the proposal which we have discussed with the distinguished Gentleman from Batangas who is not here and it is now incorporated here.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Saguisag. May we now suggest also, Mr. President, that on line 9, the letter (b) is now letter (c); and line 23, the letter (C) is now letter (D) for the corresponding adjustments.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Saguisag. Finally, line 23 again, Mr. President. "Act" should be plural; it should be ACTS.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Now, let us hear the individual amendments. Senator Angara.

ANGARA AMENDMENT

Senator Angara. Thank you, Mr. President.

Actually, it is not an amendment. I would like, first of all to ask a clarification question, Mr. President. This may sound minor now but it could have a tremendous significance later on.

On lines 4 to 8 of the Laurel amendment, it says that IT SHALL BE THE DUTY OF EVERY PUBLIC OFFICIAL OR EMPLOYEE TO DISCLOSE, UNDER OATH, TO THE BEST OF HIS KNOWLEDGE. May I ask the Sponsor, Mr. President, if there is a significance to the phrase, TO THE BEST OF HIS KNOWLEDGE. Is that equivalent to THE BEST OF HIS INFORMATION?

May I explain, Mr. President. My point is that one can sometimes forget but not deliberately fourth degree cousins who are in Government, either on his side or on the side of his wife and since he filed a statement under oath, he can be charged with perjury if the interpretation is that it is "of his knowledge" rather than "to the best of his information." So, I am trying to find out whether the meaning . . .

The President. Would it satisfy Senator Angara if we say TO THE BEST OF HIS INFORMATION AND BELIEF?

Senator Angara. Yes, exactly, Mr. President.

The President. Is there any objection? *(Silence)* Hearing none, the same is approved.

Senator Angara. Thank you.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

GONZALES AMENDMENT

Senator Gonzales. On line 20, page 11, may we know from the Sponsor what is the basis of the seven-year period here?

Senator Saguisag. Because the President serves for six years and it may only be after that that a private citizen or some other individual may be in a position to do something that

he may not be able to do during the six-year term.

The President. In other words, it is not for love of number 7.

Senator Gonzales. That is precisely what I am afraid of, Mr. President.

May I move then to amend this particular provision on line 20 by deleting the word "seven (7)" in word and in figure and change it to TEN (10) in word and in figure..

Senator Saguisag. The amendment is accepted, Mr. President.

The President. Is there any objection? *[Silence]* Hearing none, the same is approved.

Senator Gonzales. Then on line 26, is it my understanding, Mr. President, that one who commits a prohibited act which is the act of obtaining or using any statement filed under this Act for an unlawful purpose, that it is in itself an offense separate and apart from the actual use, the criminal use of the same? For example, when one obtains a statement for extortion or blackmail purposes, then in effect, he would be committing two offenses; one, the act of procuring and using that statement; and second, the offense of blackmail itself. Is that the understanding, Mr. President?

Senator Saguisag. I can conceive a situation where someone may innocently get confidential information without any attempt or intent on his part. As long as that is the only thing, there seems to be no offense, but if he uses it for some unlawful purpose, that is when there is a violation.

Senator Gonzales. Yes.

Senator Saguisag. I can see the concern. Maybe we can rephrase it.

Senator Gonzales. On the other hand, I originally intended to delete the word, "unlawful" and substitute it with UNAUTHORIZED but I could not, however, reconcile it with the

accessibility of documents. I think these statements are intended to be open to the public. In fact, we allow the copying, reproduction or the issuance of a copy of the statement under paragraph (c). And so, I have desisted, and I would only want to clarify the fact that since this is a prohibited act, it is a separate offense. And when one uses it for blackmailing purposes he commits another offense. Would that be the meaning? A fair meaning?

The President. How about adopting the phraseology in the Civil Code? ANY PURPOSE CONTRARY TO MORALS OR PUBLIC POLICY.

Senator Gonzales. I think that would be better, Mr. President.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Gonzales. Then page 12, Mr. President.

The President. Let us go to page 12.

Senator Saguisag. Just for clarity. We take that (a) and (b) are out. Lines 26 and 27 and line 1 of the next page.

Senator Gonzales. No. That was not the intentment of the suggested amendment by the President.

Senator Saguisag. But just so it will be clear on Record, how will it read now?

The President. It will now read: ANY PURPOSE CONTRARY TO MORALS OR PUBLIC POLICY.

Senator Gonzales. That is (a). And then (b) remains.

The President. All right, page 12.

Senator Gonzales. Page 12, lines 13 to 21. I move for its complete or entire deletion. Because I think, the Sponsor has always been against double standards. Why should we apply this rule with respect to certain officials and

exempt from the requirement of divestment the other officials? There must be some valid reason for the classification.

Senator Saguisag. Again, let us say, if someone of the stature of Mr. David Sycip is asked to undertake a special mission to Washington or to Rome, and then he is asked to divest, he would never accept.

Senator Gonzales. No. Then he would be covered under the last paragraph starting with line 22 which says, "The requirement of divestment shall not apply to those who serve the Government." I therefore, move to make it consistent with the previous provision in an honorary capacity that it be rephrased to read, NOR TO LABORERS, AND CASUAL OR TEMPORARY WORKERS.

Senator Saguisag. But suppose that the special agent or ambassador in that case gets paid? Let us say we get a very good lawyer to help us in certain phases of the Bataan Nuclear Power Plant problem, maybe for an assignment of six months, do we want him to divest himself of his holdings? That is my concern.

The President. Probably, the President in that case will specify that he is being appointed in an honorary capacity.

Senator Saguisag. The payment notwithstanding?

The President. Yes.

Senator Saguisag. So, we will reword this "who serve the Government IN AN HONORARY CAPACITY. . ."

Senator Gonzales. To make it consistent with the earlier amendment.

The President. So the proposal is to delete lines 13 to 21.

Senator Saguisag. The amendment is accepted.

The President. So that there will be no double standard.

Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Gonzales. And then on lines 23 to 24, remove the phrase "without receiving compensation therefrom" and change it to the phrase IN AN HONORARY CAPACITY.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Any amendment on the last paragraph of page 127 [*Silence*] If there is none, we go to page 13. [*There was none.*]

Is there any amendment on page 13? This is with respect to the Committee of the House of Representatives and of the Senate. Is there any proposed amendment?

Senator Saguisag. At the bottom, just for the record, the words in capitals is an amendment, it should be read together with lines 1 and 2. They were capitalized for convenience. So, this is a Committee amendment, Mr. President.

The President. All right. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

Senator Gonzales. My concern, Mr. President, is that this might be rendered unconstitutional or invalid. I am referring to paragraph (b) which is, "In order to carry out their responsibilities under this Act, the designated Committee of the House of Representatives and the designated Committee of the Senate have power, within their respective jurisdictions, to render any advisory opinion interpreting this Act, in writing, to persons covered by this Act. . ."

Rendering of an advisory opinion is not a part of the legislative function or duty of the Senate or of the House of Representatives.

The President. Nor has the Supreme Court the power to issue any advisory opinion.

Senator Saguisag. No. The Supreme Court does not have any.

The President. Because there is no declaratory relief from the Supreme Court.

Senator Gonzales. Precisely, Mr. President, I think jurisprudence is uniform that the Supreme Court can not be required to render an advisory opinion because that is the performance of a non-judicial function which is not incidental to the exercise of their judicial power.

Senator Saguisag. Actually, the intent here, Mr. President, is that in our function as a Committee on Ethics and Privileges, from time to time, there may be questions when the Member concerned is not sure as to what he should do. For instance, in reporting his Statement of Assets and Liabilities, should he use the acquisition value, the assessed value, the fair-market value? And, if the Committee will say that we have agreed that one of them is going to be used, then, in such a case, there will be legal defense against prosecution because of good faith.

In other words, the term "advisory opinion" is not really used in the sense that a Supreme Court can not do it in the absence of any actual controversy. It is just really advisory or an opinion, not in the sense that we have to wait for a case to be ripe. I could very well just have used the term "to render an opinion."

Senator Gonzales. Yes, Mr. President, if it is not an advisory opinion — and I doubt very much whether it has any probative value at all — then, we better delete this particular provision and make it only something that is an internal matter on the part of the Senate or of the House of Representatives.

My concern is that we are putting it in law, all right, and this to me breaches the wall of separation of powers.

Senator Saguisag. But initially, all of us render opinions even to ourselves, as it were. Let

us say, I want to know. Can I accept this gift? Is this nominal as . . .

The President. Anyway, this will be a matter of internal discipline among us. It would not detract from the bill if these were entirely deleted. This will be part of our internal rules.

Senator Gonzales. That is my point, Mr. President.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. Mr. President, I support the sentiments of the Gentleman from Mandaluyong because it is good if the Chairman of the Committee on Ethics and Privileges is always somebody as honest and as upright as the Gentleman from Pasig and Mauban. Otherwise, what will happen here, especially in the Lower House and even here in the Senate, it is very hard for the Chairman of the Committee on Ethics and Privileges not to issue an advisory opinion that is favorable to what is being requested by a Colleague in the House or in the Senate. And in practice this will detract from the intentions of the bill, Mr. President.

The President. In other words, Senator Maceda is very sure about Senator Saguisag but not about others. [Laughter]

Senator Saguisag. Well, he is pairing us . . .

Senator Angara. Mr. President.

The President. Senator Angara is recognized.

Senator Angara. Before this paragraph is stricken out, Mr. President, can I put a question to the Sponsor, as well as to Senator Gonzales.

The President. If he desires to yield [Silence] All right.

Senator Angara. Let us assume that this paragraph is deleted, Mr. President, would anyone of us who may have consulted the Committee on Ethics and Privileges on a particular ethical situation and have acted on the basis of

the advice of the said committee have a good defense to any criminal prosecution under this Act?

Senator Gonzales. Yes, Mr. President, that is precisely my objection. Apparently, we are putting this in statute just to prepare a defense of good faith without serving any legal purpose, I mean, other than that.

The President. Probably, the ultimate competence will be in the entire Chamber not in one committee alone. It will be a matter of internal discipline according to the Constitution.

Senator Angara. My point, Mr. President, is that, as I understand it, the Committee on Ethics and Privileges is in charge of deciding precisely those delicate areas of ethical conduct and if one is in doubt, he should go to the Committee for advice; but if that advice is worthless and has no probative value, then what is the use of the Committee on Ethics and Privileges?

Mr. President, if we hold that a person who had consulted the Committee on Ethics, and Privileges whether he is a Representative or a Senator, and had acted in good faith on the basis of that advice, has a good defense, then I agree, we can delete this paragraph. But I think we ought to protect anyone who relies on the advice of the very Committee of the Body that is in charge, precisely of gray areas in ethical conduct.

Senator Saguisag. That is what we have been trying to do here. We are trying to set up structures. In other words, we hope that these structures will affect conduct, and for us to assume, if not the worst, something negative about our peers, if one looks at the composition of our own Committee on Ethics and Privileges I do not think that we will act on the basis of camaraderie here nor in the other House. That is why something more is expected of this bill. We are setting ethical standards but I will bow to whatever may be the majority opinion here.

The President. How about a compromise? On line 9, SHALL HAVE POWER WITHIN THEIR RESPECTIVE JURISDICTION AND SUBJECT TO THE APPROVAL OF THEIR RESPECTIVE CHAMBERS.

Senator Gonzales. Actually, the intendment, Mr. President, of paragraphs "a" and "b" of Section 9 is to have these provisions applicable only to the Senators and Members of the House of Representatives.

The President. Yes.

Senator Gonzales. And to no other?

Senator Saguisag. No, letter "c", Mr. President.

The President. Would that compromise be agreeable to the Gentleman?

Senator Saguisag. Letter "c" makes it applicable to everyone.

The President. Would that be agreeable to Senator Gonzales?

Senator Gonzales. Yes, Mr. President. But in paragraph "c", I would not say that the heads — I do not know. Why do we have a Secretary of Justice for? He is the legal counsel of the Government and any opinions that are really binding should be the opinion. Not every head, because if every head is permitted to interpret the requirements of this law, there will be probably one hundred different interpretations.

Senator Saguisag. Well, as long as they are more strict than the law, we should encourage that. What we do not want them to do is to go against this law.

SUSPENSION OF THE SESSION

The President. The session is suspended for a few minutes, if there is no objection. [*There was none.*]

It was 6:03 p.m.

1598

RESUMPTION OF THE SESSION

At 6:04 p.m., the session was resumed.

The President. The session is resumed.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

Senator Gonzales. As far as paragraph "c" of Section 9, page 13, is concerned, starting with line 20, I am adopting a compromise suggestion, Mr. President, and I would propose that on line 20, between the words "offices" and shall," we insert after "offices" a comma and the phrase, SUBJECT TO THE APPROVAL OF THE SECRETARY OF JUSTICE shall perform the duties, . . .

The President. Should that not appear after the last word?

Senator Gonzales. That will be grammatical or formal, but if it makes a better grammar, we could delete the period after "concerned" add the phrase: SUBJECT TO THE APPROVAL OF THE SECRETARY OF JUSTICE.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Saguisag. Just one concern, Mr. President. May we know from the Gentleman from Mandaluyong if that will be limited to the Executive Branch?

The President. I think it is clear that this is limited to the other branches of government.

Senator Saguisag. But the Supreme Court should really be exempted and should be independent; it will police itself, so to speak.

The President. Yes. Only to the Executive Department.

Senator Saguisag. Thank you, Mr. President.

The President. Is there any proposed amendment on Section 10, *Penalties*?

We go to page 14. Is there any proposed

amendment, Committee or individual amendments?

SAGUISAG AMENDMENT

Senator Saguisag. On page 14, line 2, the figure "5" should go out because we are not now penalizing deviations from Section 5.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Saguisag. On line 4, Mr. President, between "or" and "fine," may we insert "a"?

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Saguisag. On line 24, instead of the original, we will take out the phrase, "Such remedy shall be in addition to any other" and replace it on line 24 with IF ANOTHER.

Then line 25 is maintained. The period is out.

And then line 26, "IS HEAVIER, THE LATTER WILL APPLY." So, it will now read: IF ANOTHER sanction hereunder or under any other law or statute IS HEAVIER, THE LATTER WILL APPLY.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Saguisag. We are also suggesting here the appropriation of a certain amount in view of the fact that we have adopted the incentive system and that will require some funding.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized

Senator Maceda. Anterior question, Mr. President:

Considering that the distinguished Gentleman is a well-known lawyer, regarding lines 11, 12, and 13 which say, "or is instituted unsuccessfully for failure to prove guilt beyond a reasonable doubt or due to some technicality," I

was just wondering what is the rationale of this language, "or is instituted unsuccessfully," or if he is acquitted, "or due to some technicality."

Senator Saguisag. The standard in an administrative proceeding is lower. In the criminal case, for instance, the witness may not appear, but he may, in the administrative proceedings. So, the standards are beyond a reasonable doubt, preponderance of evidence and substantial evidence. And it is well settled that in an administrative proceeding — and this has happened time and again — people who have been acquitted have been administratively penalized, anyway. So, it just restates Hornbook Law. Nothing new is being introduced here.

Senator Maceda. Yes, that is correct, Mr. President. We accept that the standards on administrative proceedings are lower. But what we are referring in this case, is even if no criminal prosecution is instituted against him or if the criminal prosecution instituted against him is dismissed. I was just wondering why we specify "for failure to prove guilt beyond a reasonable doubt or due to some technicality."

Senator Saguisag. There are two situations here: line 11 up to the word "him" covers a purely administrative case; while in the subsequent phrase or fragment, this just restates the law that there may have been a criminal case that may have been instituted but the accused may have been acquitted; or, the charges against him may have been dismissed for failure to prove beyond reasonable doubt because that is a very high standard to prove.

The President. Or, he has gone out of the country.

Senator Saguisag. Those things; those technicalities.

Senator Maceda. It is still covered if we just say the charges against him are dismissed. I am just wondering why we specify these two rea-

sons. Just a matter of style, I suppose, Mr. President.

Senator Saguisag. This can go out without really any harm. This just restates what is settled in the applicable jurisprudence, anyway. So if the suggestion is to delete "or" appearing on line 11 to the end of the sentence on line 13, I can accept, Mr. President. So that after "him," instead of a comma, will be a period.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Any further amendment on page 14?

Senator Saguisag. This is the penultimate page, anyway. I would just want to toss to the Body a proposal which I would like to make as Section 11. Since we are setting, as I said, ethical standards, I would not want to have any interpretation that by passing this we may have, in fact, inadvertently relaxed some applicable standards now. So, I am suggesting this Section 11, and it reads as follows: NOTHING IN THIS ACT SHALL BE CONSTRUED TO DEROGATE FROM ANY LAW, OR ANY REGULATION PRESCRIBED BY ANY DEPARTMENT OR AGENCY, WHICH PROVIDES FOR MORE STRINGENT STANDARDS ON ITS EMPLOYEES.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Saguisag. So, Section 11, line 27, should now be SECTION 12, Mr. President, the appropriation clause.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Saguisag. On page 15, if we may move on, "SEC. 12" on line 2 should be renumbered to 13. Line 17, Mr. President, also a renumbering, "13" to 14; and line 11, renumbering of "SEC. 14" to SEC. 15.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

1600

Senator Saguisag. On line 12, may we suggest that we insert, between "following" and "its," the words THE COMPLETION OF to follow the wording of the Civil Service Law.

The President. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Saguisag. Mr. President, may I just go on record. I am sorry I started with the amendment of the title yesterday. I should not have been so presumptuous to assume that all the suggested amendments, including the change of title regarding the awards, would have been accepted. Really, the amendment of the title should come at the end.

And finally, just for purposes of record, I also wish . . .

The President. Why do we not approve the title now which, under the *Rules*, is the last amendment?

Senator Saguisag. The title as now reworded should read:

AN ACT ESTABLISHING ETHICAL STANDARDS FOR ALL PUBLIC OFFICIALS, CREATING A SYSTEM OF INCENTIVES AND REWARDS, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

The President. Is there any objection?

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. Just a minor addition, Mr. President.

While it is defined in the Act, an ordinary employee, when he reads the title and reads "PUBLIC OFFICIALS," may immediately conclude that it is not applicable to him. So, I would rather suggest that after "OFFICIALS," we add AND EMPLOYEES.

The President. All right. That is well taken.

Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Saguisag. Finally, Mr. President, just to correct the record yesterday, I misspoke when I said that the first Ombudsman in Sweden was appointed 120 years ago. It really happened in 1809.

Thank you.

Senator Mercado. Mr. President, if there are no other amendments, I move that we close the period of amendments and approve Senate Bill No. 139 on Second Reading.

The President. Is there any objection to the approval of Senate Bill No. 139 on Second Reading?

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

ROMULO AMENDMENT

Senator Romulo. Mr. President, with the permission of the distinguished Sponsor, this Representation would wish to ask the distinguished Sponsor for the title, if he would agree, AN ACT ESTABLISHING THE PUBLIC ACCOUNTABILITY OF OR FOR ALL PUBLIC OFFICIALS AND EMPLOYEES. . .

Senator Saguisag. I can accept that subject to refinement and style.

Senator Romulo. Mr. President, the reason for this is that the title of all these provisions and this Act represent the cornerstone, the essence of the entire bill and it seems to this Representation that this title "public accountability" would best capture the essence of what we are trying to pass and, therefore, I would like to thank the Gentleman.

SUSPENSION OF THE SESSION

Senator Saguisag. May we have a short suspension of the session, Mr. President?

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 6:16 p.m.

RESUMPTION OF THE SESSION

At 6:17 p.m., the session was resumed.

The President. The session is resumed.

Senator Romulo is recognized.

Senator Romulo. Mr. President, if we may rephrase the title: AN ACT ESTABLISHING ETHICAL STANDARDS AND THE PRINCIPLES OF PUBLIC ACCOUNTABILITY. . .

The President. AND UPHOLDING.

Senator Romulo. . . .AND UPHOLDING THE PRINCIPLES OF PUBLIC ACCOUNTABILITY FOR ALL PUBLIC OFFICIALS AND EMPLOYEES, CREATING A SYSTEM OF INCENTIVES AND REWARDS, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Romulo. Thank you.

Senator Saguisag. Thank you, Mr. President.

APPROVAL OF SENATE BILL NO. 139, AS AMENDED ON SECOND READING

Senator Mercado. Mr. President, I move for the approval of the bill, as amended, on Second Reading.

The President. We shall now vote on the bill, as amended, on Second Reading.

As many as are in favor of the bill as amended will please say *Aye*. [*Several Senators said Aye.*]

As many as are against will please say *Nay*. [*No Senator said Nay.*]

With several Senators in favor and none

against, Senate Bill No. 139, as amended, is approved on Second Reading.

CONFERENCE COMMITTEE ON
SENATE BILL NO. 92 AND HOUSE
BILL NO. 1947
(Resetting the Local Elections)

Senator Mercado. Mr. President, I move that we create a Conference Committee to reconcile the disagreeing provisions of Senate Bill No. 92, entitled:

AN ACT RESETTING THE LOCAL ELECTIONS FROM NOVEMBER 9, 1987 TO JANUARY 18, 1988, AMENDING FOR THIS PURPOSE EXECUTIVE ORDER NO. 270

and House Bill No. 1947, entitled:

AN ACT RESETTING THE LOCAL ELECTIONS FROM NOVEMBER 9, 1987 TO JANUARY 18, 1988, AMENDING FOR THIS PURPOSE EXECUTIVE ORDER NO. 270, AND FOR OTHER PURPOSES.

The members of the said Conference Committee, Mr. President, would be Senators Nepitali Gonzales, Aquilino Pimentel, Jr., Teofisto Guingona, Jr. Orlando Mercado, and Juan Ponce Enrile.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

By the way, there is already a Conference Committee from the House of Representatives.

BILL ON SECOND READING
Senate Bill No. 137 – Confirmation of
Presidential Appointments
(Continuation)

Senator Mercado. Mr. President, I move that we consider Committee Report No. 28 on Senate Bill No. 137. We are still in the period of amendments and I ask that we recognize Senator Tañada.

The President. Is this the bill on the Commission on Appointments? Senator Tañada is recognized.

Senator Tañada. Mr. President, it was actually Senator Maceda who was on the floor, and is one of the principal authors of these consolidated bills. So, I will ask that he be recognized.

SUSPENSION OF THE SESSION

The President. Why do we not call for a brief suspension of two or three minutes to give everyone a breathing spell?

The session is suspended, if there is no objection? [*There was none.*]

It was 6:19 p.m.

RESUMPTION OF THE SESSION

At 6:30 p.m., the session was resumed.

The President. The session is resumed.

Senator Maceda is recognized.

Senator Maceda. Mr. President, I would like to present some Committee amendments.

POINT OF INFORMATION OF
SENATOR PATERNO

The President. Just a moment. I think, Senator Paterno would like to raise a point.

Senator Paterno. With the indulgence of Senator Maceda, Mr. President.

During the recess, we were discussing the amendment of Senator Romulo on the previous bill and I was trying to clarify with him as to whether the requirement for the filing of the statement of assets and liabilities to the year when he first entered the government service would apply on a retroactive basis to all those who are in government at the present time or would that only apply prospectively to those who will join the government service in the future?

Senator Romulo. Mr. President, I was reviewing our notes and as stated, it would apply to the period prior to the first year they first assumed office in the Government so that

OCT. 21, 1988

The President Pro Tempore. The session is resumed.

CONFERENCE COMMITTEE REPORT
ON SENATE BILL NO. 139/HOUSE BILL NO. 12069
(Ethical Standards)

Senator Mercado. Mr. President, at the instance of the Chairman of the Committee on Ethics, I move for the consideration of the Conference Committee Report on the disagreeing provisions of Senate Bill No. 139, entitled

AN ACT ESTABLISHING ETHICAL STANDARDS AND UPHOLDING THE PRINCIPLE OF PUBLIC ACCOUNTABILITY FOR ALL PUBLIC OFFICIALS AND EMPLOYEES, CREATING A SYSTEM OF INCENTIVES AND REWARDS, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

and House Bill No. 12069, entitled

AN ACT ESTABLISHING A CODE OF CONDUCT FOR GOVERNMENT EMPLOYEES, UPHOLDING THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES FOR EXEMPLARY SERVICE, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

I move that we recognize Senator Saguisag.

The President Pro Tempore. Senator Saguisag is recognized.

Senator Saguisag. I regret, Mr. President, that I have to take more of our valuable time, but the subject matter of this Conference Committee Report is Senate Bill No. 139 which we passed more than a year ago. And we had a Conference Committee meeting last August. It was only last night that this was returned to us. All five Members of our Chamber have signed the same. As to the House, three of them have signed but I understand that Congressman Orbos has also signed another copy of it and also Congressman Dureza, but also on another copy, so that the report is unanimous.

The changes in this consolidated version are identified in the Conference Committee Report. I represent to this Body that we have protected the integrity of our intent when we passed our version. I can only say that this carries out a commitment that we made on the very first day that we will have an ethical Congress. So, this measure was cosponsored by the Senate President as the

main sponsor, along with the President Pro Tempore, Senator Mercado and myself.

APPROVAL OF CONFERENCE COMMITTEE REPORT
ON SENATE BILL NO. 139/HOUSE BILL NO. 12069

So, unless there are any questions, I respectfully move that the Conference Committee Report be approved, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Saguisag. Thank you.

The following is the full text of the Conference Committee Report:

CONFERENCE COMMITTEE REPORT

The Conference Committee on the disagreeing provisions of Senate Bill No. 139, entitled

AN ACT ESTABLISHING ETHICAL STANDARDS AND UPHOLDING THE PRINCIPLE OF PUBLIC ACCOUNTABILITY FOR ALL PUBLIC OFFICIALS AND EMPLOYEES, CREATING A SYSTEM OF INCENTIVES AND REWARDS, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

and House Bill No. 12069, introduced by the House of Representatives as an amendment to the Senate Bill by substitution, entitled

AN ACT ESTABLISHING A CODE OF CONDUCT FOR GOVERNMENT EMPLOYEES, UPHOLDING THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES FOR EXEMPLARY SERVICE, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES,

having met, after full and free conference, have agreed to recommend and do hereby recommend to their respective Houses that House Bill No. 12069 be consolidated with Senate Bill No. 139 and the latter be approved with amendments as follows:

1. On page 1, line 1, between the quotation mark (") and the word "Ethical", insert the phrase "CODE OF CONDUCT AND";

2. On the same page, line 2, delete the word "all" between the words "for" and "Public" and delete the word "Act" after the word "Employees";

3. On the same page, line 3, delete the word "Statement" and substitute with the word "DECLARATION";

4. On the same page, line 4, delete the words "Philippine Government" and substitute with the word "STATE";

5. On the same page, line 7 and 8, insert the word "AND" between the words "competence" and "loyalty";

Also on the same line, delete the phrase "efficiency, delicadeza, candor, openness and transparency" until line 9, and substitute with the phrase "ACT WITH PATRIOTISM AND JUSTICE, LEAD MODEST LIVES AND UPHOLD PUBLIC INTEREST OVER PERSONAL INTEREST";

6. On page 2, line 1, delete the letter "s" in the word "Definitions";

On the same page, line 4, insert between the comma (,) after the word "governments" and the word "government-owned" the phrase "AND ALL OTHER INSTRUMENTALITIES, AGENCIES OR BRANCHES OF THE REPUBLIC OF THE PHILIPPINES INCLUDING";

Also on the same line, add a hyphen "-" before the word "controlled";

7. On the same page, lines 5 and 6, delete the phrase "all other instrumentalities, agencies or branches of the Republic of the Philippines", and substitute the phrase "THEIR SUBSIDIARIES";

8. On the same page, lines 21 and 22, delete the phrase "within the fourth civil degree either by consanguinity or affinity" and substitute with the phrase "AS DEFINED IN THIS ACT";

9. On page 3, line 12, delete the comma (,) after the word "age" and the phrase "living in the same household";

10. On the same page, line 17, between the words "or" and "business" insert the phrase "OWNER OR HAS A SUBSTANTIAL INTEREST IN A";

Also on the same line, insert a comma (,) after the word "business";

11. On the same page, line 18, between the words "business" and "or" insert a comma (,);

12. On the same page, line 19, between the words "therein" and "may", insert a comma (,);

13. On the same page, after line 20, insert a new subsection (j) to read as follows: "DIVESTMENT IS THE TRANSFER OF TITLE OR DISPOSAL OF INTEREST IN PROPERTY BY VOLUNTARILY, COMPLETELY AND ACTUALLY DEPRIVING OR DISPOSSESSING ONESELF

OF HIS RIGHT OR TITLE TO IT IN FAVOR OF A PERSON OR PERSONS OTHER THAN HIS SPOUSE OR RELATIVES AS DEFINED IN THIS ACT.";

14. On page 3, line 21, subsection (j) is redenominated as Subsection (k);

On the same page, line 23, after the word "affinity", add a comma (,) and the phrase "INCLUDING BILAS, INSO" and "BALAE";

15. On the same page, line 24, renumber Sec. 4 as Section 12 and transfer the same to page 19 after line 6;

On the same line, before the word "Administration", add the phrase "PROMULGATION OF RULES AND REGULATIONS" and a comma (,);

16. On the same page, line 25, between the words "The" and "primary", insert the phrase "CIVIL SERVICE COMMISSION SHALL HAVE THE";

17. On page 4, line 1, delete the phrase "shall rest upon the Ombudsman in line with the provisions of Article XI, Section 13 of the Constitution" ending in line 31;

18. On the same page, line 3, delete the words "The Ombudsman" and substitute with the word "IT";

19. On the same page, line 4, delete the phrase "of any of the provisions" after the word "violations";

20. On the same page, line 5, delete the words "special prosecutor" and substitute with the words "PROPER AUTHORITIES";

Also on the same page, line 6, delete the words "the Ombudsman" and substitute with the word "IT";

21. On the same page, line 7, delete the word "remedies" between the words "administrative" and "and" and substitute with the word "ACTIONS";

22. On the same page, line 12, delete the word "Ombudsman" and substitute it with the words "CIVIL SERVICE COMMISSION";

23. On the same page, line 17, delete the phrase "behavior" and activities" and substitute with the words "ACTS OR OMISSIONS";

24. Renumber Sec. 5 to Sec. 4

25. On the same page, line 24, between the word "interest" and the period (.), insert the words "OVER AND ABOVE PERSONAL INTEREST";

26. On page 5, line 1, delete the words "Toward this end, the" and substitute with the words "ALL GOVERNMENT";

27. On the same page, line 3 between the word "economically", and the period (.) insert a comma and the phrase "PARTICULARLY TO AVOID WASTAGE IN PUBLIC FUNDS AND REVENUES";

On the same page, lines 3 to 6, delete the sentence beginning with the word "In" until the word "welfare" and the period (.) after it;

28. On the same page, line 9, between the words "of" and "professionalism", insert the word "EXCELLENCE" and a comma (,) after it;

29. On the same page, lines 10 and 11, delete the phrase "upon their respective functions in the Government" and substitute with the words "PUBLIC SERVICE";

30. On the same page, line 11, between the words "utmost" and "dedication", insert the words "DEVOTION AND";

Also on the same page and line, delete the phrase "and earnest devotion to public service", in line 12 and substitute with the words "TO DUTY";

31. On the same page, line 13, between the words "dispensers" and "of", insert the words "OR PEDDLERS";

32. On the same page, line 15, delete the phrase beginning with the word "be" until the word "employees" in line 17, and substitute with the phrase "REMAIN TRUE TO THE PEOPLE AT ALL TIMES" and the sentence "THEY MUST ACT WITH JUSTNESS AND SHALL NOT DISCRIMINATE AGAINST ANYONE, ESPECIALLY THE POOR AND THE UNDERPRIVILEGED" and the period (.) after the sentence;

33. On the same page, line 19, between the comma (,) and the word "morals" insert the word "GOOD";

34. On the same page, line 21, between the words "extend" and "favors", insert the word "UNDUE";

35. On page 6, line 4, delete the sentence beginning with the word "They" until the period (.) in line 9;

36. On page 6, line 17, between the words "appropriate" and "and" insert a comma (,) and the phrase "ENCOURAGE SUGGESTIONS, SIMPLIFY AND SYSTEMATIZE POLICY, RULES AND PROCEDURES, AVOID RED TAPE";

37. On the same page, line 19, between the words "country" and "especially", insert a comma (,);

38. On the same page, line 21, between the word "Nationalism" and the period (.), insert the words "AND PATRIOTISM";

39. On the same page, line 22, add the phrase "AT ALL TIMES" before the word "be";

40. On the same page, line 25, add a new sentence after the period (.) which shall read as follows: "THEY SHALL ENDEAVOR TO MAINTAIN AND DEFEND PHILIPPINE SOVEREIGNTY AGAINST FOREIGN INTRUSION."

41. On page 7, line 14, delete the phrase "throughout the career service" and the comma (,) before the word "including";

On the same page and line, between the words "including" and "information", insert the phrase "THE DISSEMINATION OF";

42. On page 7, after line 22, insert a new Section 5 which shall read as follows:

SEC. 5. DUTIES OF PUBLIC OFFICIALS AND EMPLOYEES. IN THE PERFORMANCE OF THEIR DUTIES, ALL PUBLIC OFFICIALS AND EMPLOYEES ARE UNDER OBLIGATION TO:

A. ACT PROMPTLY ON LETTERS AND REQUESTS. — ALL PUBLIC OFFICIALS AND EMPLOYEES SHALL, WITHIN FIFTEEN (15) WORKING DAYS FROM RECEIPT THEREOF, RESPOND TO LETTERS, TELEGRAMS OR OTHER MEANS OF COMMUNICATIONS SENT BY THE PUBLIC. THE REPLY MUST CONTAIN THE ACTION TAKEN ON THE REQUEST.

B. SUBMIT ANNUAL PERFORMANCE REPORTS. — ALL HEADS OR OTHER RESPONSIBLE OFFICERS OF OFFICES AND AGENCIES OF THE GOVERNMENT AND OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS SHALL, WITHIN FORTY-FIVE (45) WORKING DAYS FROM THE END OF THE YEAR, RENDER A PERFORMANCE REPORT OF THE AGENCY OR OFFICE OR CORPORATION CONCERNED. SUCH REPORT SHALL BE OPEN AND AVAILABLE TO THE PUBLIC WITHIN REGULAR OFFICE HOURS.

C. PROCESS DOCUMENTS AND PAPERS EXPEDITIOUSLY. — ALL OFFICIAL PAPERS AND DOCUMENTS MUST BE PROCESSED AND COMPLETED WITHIN A REASONABLE TIME FROM THE PREPARATION THEREOF AND MUST CONTAIN, AS FAR AS PRACTICABLE, NOT MORE THAN THREE (3) SIGNATORIES THEREIN. IN THE ABSENCE OF DULY AUTHORIZED SIGNATORIES, THE OFFICIAL NEXT-IN-RANK OR OFFICER-IN-CHARGE SHALL SIGN FOR AND IN THEIR BEHALF.

D. ACT IMMEDIATELY ON THE PUBLIC'S PERSONAL TRANSACTIONS. — ALL PUBLIC OFFICIALS AND EMPLOYEES MUST ATTEND TO ANYONE WHO WANTS TO AVAIL HIMSELF OF THE SERVICES OF THEIR OFFICES AND MUST, AT ALL TIMES, ACT PROMPTLY AND EXPEDITIOUSLY.

E. MAKE DOCUMENTS ACCESSIBLE TO THE PUBLIC. — ALL PUBLIC DOCUMENTS MUST BE MADE

ACCESSIBLE TO, AND READILY AVAILABLE FOR INSPECTION BY, THE PUBLIC WITHIN REASONABLE WORKING HOURS.

43. On page 7, line 23, renumber subsection (c) as Section 6;

44. On the same page, line 23, add the topical title "SYSTEM OF INCENTIVES AND REWARDS", and a period (.) before the word "A";

45. On page 8, lines 4 and 5, delete the comma (,) and the words "as chairman" after the word "Ombudsman"; and substitute with the phrase "AND CHAIRMAN OF THE CIVIL SERVICE COMMISSION AS CO-CHAIRMEN";

46. On the same page, line 6, delete the phrase "the Chairman of the Civil Service Commission" and the comma (,) after it;

On the same page and beginning with line 6 until line 9, delete the phrase "the heads of the Philippine Government Employees Association and the Confederation of Government Employees Organizations" and substitute the same with the phrase, "TWO GOVERNMENT EMPLOYEES TO BE APPOINTED BY THE PRESIDENT";

Also on the same page and line, make a new paragraph beginning with the word "IT" in line 9 until the word "Act" on line 15;

47. On the same page, line 13, delete the word "awards" between the words "and" and "to" and substitute with the word "REWARDS";

48. On the same page, line 16, make another paragraph beginning with the word "The";

49. On page 9, line 1, delete the word "promotions" and the comma (,) between the words "of" and "bonuses";

50. Also on the same page and line, between the comma (,) and the word "local", insert the phrase "DIRECTORSHIPS IN GOVERNMENT-OWNED OR -CONTROLLED CORPORATIONS" and a comma (,);

51. On the same page, line 2, add two sentences after the period (.) to read as "THEY SHALL LIKEWISE BE AUTOMATICALLY PROMOTED TO THE NEXT HIGHER POSITION WITH THE COMMENSURATE SALARY SUITABLE TO THEIR QUALIFICATIONS. IN CASE THERE IS NO NEXT HIGHER POSITION OR IT IS NOT VACANT, SAID POSITION SHALL BE INCLUDED IN THE BUDGET OF THE OFFICE IN THE NEXT GENERAL APPROPRIATION ACT.";

52. On the same page, line 5, renumber Sec. 6 as Sec. 7;

53. On the same page, line 8, between the words "prohibited" and "transactions", insert the words "ACTS AND";

54. On the same page, line 11, delete the comma (,) between the words "Financial" and "Material" and insert the word "AND";

Also on the same line, delete the words "or Pecuniary";

55. On the same page, line 13, delete the comma (,) between the words "financial" and "material" and substitute with the word "OR";

Also on the same line, delete the comma (,) and the words "or pecuniary" between the words "material" or "interest";

56. On the same page, line 18, delete the comma (,) after the word "manage";

On the same page, line 20, delete the comma (,) between the words "in" and "any";

57. On the same page, line 24, insert a comma (,) between the words "law" and "provided";

58. On page 10, line 6, delete the word "will" and substitute with the word "SHALL";

59. On the same page, line 12, delete the word "will" and substitute with the word "SHALL";

60. On the same page, line 13, between the words "and" and "Misuse", insert a bar (/) and the word "OR";

61. On the same page, line 14, delete the comma (,) between the words "use" and "divulge" and substitute with the word "OR";

62. On the same page, lines 14 and 15, delete the phrase "or repeat valuable" and substitute with the word "CONFIDENTIAL";

63. On the same page, line 16, delete the word "but" between the words "them" and "not" and substitute with the phrase "BY REASON OF THEIR OFFICE AND";

64. On page 11, line 2, between the words "or" and "transaction", insert the word "ANY";

65. On the same page, line 3, make a new paragraph beginning with the word "As" until the word "agency" on line 18;

66. On the same page, lines 8 and 9, delete the word "when such" and substitute with the words "OF A";

67. On the same page, line 9, delete the word "is" between the words "gift" and "in";

On the same page, line 15, delete the comma (,) and substitute with the word "OR";

68. On the same page, line 16, insert the words "HEAD OF OFFICE" and a comma (,) between the words "the" and "branch";

69. On the same page, line 17, delete the comma (,) and the phrase "and by the regulations which may be prescribed by such branch or agency" until line 18;

70. On page 12, lines 1 and 2, delete the comma (,) after the word "programs" and the phrase "now existing on which may be established hereafter" and the comma (,) after it;

71. On the same page, line 3, renumber Sec. 7 as Sec. 8;

72. On the same page, line 4, delete the word "disclose" and the comma (,) after it and substitute with the phrase "ACCOMPLISH AND SUBMIT DECLARATIONS UNDER OATH OF";

73. On the same page, line 5, insert a comma (,) between the words "know" and "their";

74. On the same page, line 7, delete the word "below" between the words "children" and "eighteen" and substitute with the word "UNDER";

75. On the same page, lines 16 and 17, delete the comma (,) after the word "households" and the phrase "and a Disclosure of Relatives in Government";

76. On the same page, line 18, delete the word "first" between the words "The" and "two";

On the same page and line, delete the words "required under this Act";

On page 13, lines 1 and 2, make the phrase beginning with the word "The" a new paragraph;

77. On page 13, line 18, transpose the words "statements" and "required";

78. On page 14, line 1, delete the words "In addition" and the comma (,) before the word "Senators";

79. Also on the same page, lines 1 and 2, insert a comma (,) after the word "Congressmen" and delete the phrase "shall file certified true copies of the same";

80. On the same page, lines 3 and 4, between the words "Clerk" and "of", insert the words "OF COURT";

81. On the same page, line 7, insert a comma (,) after the word "employees" and delete the phrase "shall file under oath their Statement of Assets, Liabilities and Net Worth" until line 9;

82. On the same page, line 12, after the word "captain", insert a comma (,) and delete the phrase "shall file the same";

83. On the same page, line 13, delete the word "Military";

84. On the same page, line 14, between the word "Ombudsman" and the semi-colon (;) insert the words "IN THEIR RESPECTIVE REGIONS";

85. On the same page, lines 16 and 17, delete the phrase "their respective heads of office" and substitute with the words "THE CIVIL SERVICE COMMISSION";

86. On the same page, line 18, delete the phrase "Disclosure of Identities" and substitute with the phrase "IDENTIFICATION AND DISCLOSURE";

On the same page and line, delete the words "in Government";

87. On the same page, line 20, between the words "to" and "disclose", insert the words "IDENTIFY AND";

On the same line, delete the words "under oath" and the comma (,) before the word "to";

Also on the same line, between the words "his" and "information", insert the word "KNOWLEDGEABLE AND"; insert a comma (,) after the word "information", and delete phrase "and belief, the identities of" until line 21;

88. On the same page, line 21, delete the comma (,) after the word "Government";

89. On the same page, line 23, delete the word "Ombudsman" and substitute with the phrase "Civil Service Commission";

90. On page 15, line 5, between the figure (10) and the word "days", insert the word "WORKING";

91. On the same page, line 7, delete the word "may" and substitute with the word "SHALL";

92. On the same page, line 10, delete the comma (,) after the word "certification" and also delete the words "if requested";

93. On the same page, line 19, delete the word "and" and substitute with the word "OR";

94. On the same page, line 24, renumber Sec. 8 as Sec. 9;

Also on the same line, add the small letter "s" to the word "conflict";

95. On the same page and line, between the word "interest" and the period (.), insert the words "AT ALL TIMES";

Also on the same line, delete the words "Where such" and substitute with the words "WHEN A";

96. On the same page, line 25, delete the word "exists" and substitute with the word "ARISES" and a comma (,);

Also on the same line, delete the word "said" and substitute with the words "ANY PRIVATE BUSINESS";

97. On page 16, line 2, delete the word "must" between the words "and/or" and "divest";

98. On the same page, line 3, delete the word and the figure "Ninety (90)" and substitute with the word and figure "Sixty (60)";

Also on the same line, delete the words "of office";

99. On the same page, lines 5 to 8, delete the phrase "or, if a limited partner, has an interest, directly or indirectly, to the extent of at least twenty (20) percent of the capital and/or profits of the partnership";

100. On the same page, line 12, renumber Sec. 9 as Sec. 10;

101. On the same page, line 13, add a small letter "s" to the word "Committee";

102. On the same page, lines 13 and 14, delete the phrase "the House of Representatives and the designated Committee of the Senate" and substitute with the phrase "BOTH HOUSES OF THE CONGRESS";

103. On the same page, lines 15 and 16, delete the phrase "reports sent to them under Section 7 of this Act" and the comma (,) after it and substitute with the word "Statements";

104. On the same page, line 16, delete the word "the" and substitute with the word "SAID";

105. On the same page, line 17, delete the word "filed";

106. On the same page, line 21, delete the word "all" between the words "take" and "necessary" and substitute with the word "THE";

107. On the same page, line 23, add a small letter "s" to the word "Committee";

108. On the same page, lines 23 and 24, delete the phrase "the House of Representatives and the designated committee of the Senate" and substitute with the phrase "BOTH HOUSES OF THE CONGRESS";

On the same page, line 25, between the words "have" and "power", insert the word "THE";

109. On page 17, lines 4 and 5, delete the phrase "Notwithstanding any other provisions of law" and the comma (,);

110. On the same page, line 5, substitute the small letter "t" of the word "the" with a capital letter "T"; and make a new paragraph beginning with this sentence;

111. On the same page, line 6, delete the phrase "in accordance with this subsection";

112. Also on the same page, line 7, delete the phrase "covered by this Act who is";

Also on the same page, between the words "a" and "factual", insert the word "SIMILAR";

113. On the same page, line 8, delete the phrase "which is indistinguishable in all material aspects";

114. On the same page, lines 10 and 11, delete the phrase "the provisions and findings of such opinion" and substitute with the word "IT";

115. On the same page, line 11, delete the comma (,) between the words "not" and "as" and the phrase "as a result of such Act" and the comma (,) after it;

116. On the same page, line 19, renumber Sec. 10 as Sec. 11;

117. On the same page, line 25, between the word "offense" and the period (.) insert the phrase "AFTER DUE NOTICE AND HEARING BY THE APPROPRIATE BODY OR AGENCY";

118. On page 18, line 3, add a small letter "s" to the word "Violation";

Also on the same line, delete the figure "6" and the comma (,) after it; delete the word "or" between the comma (,) and the figure "8"; and insert the word "OR" and the figure "9" between the figure "8" and the word "of";

119. On the same page, line 19, delete the figure "7" and substitute with the figure "8";

120. On the same page, line 23, delete the words "or statute" between the words "law" and "is";

121. Also on the same page, line 24, delete the word "will" and substitute with the word "SHALL";

122. On page 19, line 1, renumber Sec. 11 as Sec. 13;

123. On the same page, lines 3 to 4, delete the word [department] and replace with the word "BODY";

124. On the same page, line 6, renumber Sec. 12 as Sec. 14 and delete the phrase beginning with the word "of" in line 8 until "this" in line 10, and substitute with the following:

"NECESSARY FOR THE EFFECTIVE IMPLEMENTATION OF THIS ACT SHALL BE TAKEN FROM THE APPROPRIATIONS OF THE CIVIL SERVICE COMMISSION. THEREAFTER, SUCH SUM AS MAY BE NEEDED FOR ITS CONTINUED IMPLEMENTATION SHALL BE INCLUDED IN THE ANNUAL GENERAL APPROPRIATIONS";

125. On the same page, line 11, renumber Sec. 13 as Sec. 15;

126. On the same page, line 16, renumber Sec. 14 as Sec. 16;

127. Also on the same page, line 16, delete the phrase beginning with the word "rules" in line 16 up to the word "Act" in line 18 and substitute with the phrase "DECREES AND ORDERS OR PARTS THEREOF INCONSISTENT HERewith" and a comma (,);

128. Also on the same page, line 18, add the word "DEEMED" after "are" and delete the word "hereby";

129. On the same page, line 21, renumber Sec. 15 as Sec. 17;

130. On the same page, line 22, delete the word and figure "fifteen (15)" and substitute with the word and figure "THIRTY (30)";

131. The title is revised to read as follows:

"AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER PURPOSES"

*Conferees on the Part of
the House of Representatives*

(Sgd.) RENATO DRAGON

(Sgd.) CIRILO ROY C. MONTEJO

(Sgd.) OSCAR M. ORBOS

(Sgd.) JESUS G. DUREZA

(Sgd.) SALVADOR H. ESCUDERO III

Conferees on the Part of the Senate

(Sgd.) RENE A.V. SAGUISAG

(Sgd.) WIGBERTO E. TAÑADA

(Sgd.) LETICIA R. SHAHANI

(Sgd.) TEOFISTO T. GUINGONA, JR.

(Sgd.) JUAN PONCE ENRILE

The President Pro Tempore. The Majority Floor Leader is recognized.

SUSPENSION OF THE SESSION

Senator Mercado. I move that we suspend the session until 4:30 this afternoon.

The President Pro Tempore. The session is suspended until 4:30 this afternoon.

It was 12:40 noon.

RESUMPTION OF THE SESSION

At 4:44 p.m., the session was resumed, with the Honorable Jovito R. Salonga, President of the Senate, presiding.

The President. The session is resumed.

Senator Maceda. Mr. President.

The President. The Assistant Majority Floor Leader is recognized.

Senator Maceda. We are currently distributing the Conference Committee Report on the disagreeing provisions of House Bill No. 17670, as amended by the Senate. I wonder whether, with the permission of the Body, we can ask Senator Guingona to explain the amendments and we shall take a recess before we actually vote on the matter and hopefully, by that time, the Conference Committee Report is fully circulated.

The President. The Conference Committee Report has been signed by all.

Senator Maceda. Yes, Mr. President. It was signed by all, with one dissent as to the postponement signed by the Minority Floor Leader of the Senate.

Oct. 23, 1987

Senator Tamano. We consider the Presiding Officer of the Senate as the fountain of wisdom as far as we are concerned and, therefore, we shall be happy to whatsoever committee he refers it to.

The President. Is there any objection to a joint referral to the Committees on Health and Natural Resources and Ecology? [*Silence*] There being none, the motion is approved.

BILL ON THIRD READING

Senate Bill No. 139 – Ethical Standards for Public Officials/Employees

Senator Mercado. Mr. President, I move that we vote on Third Reading on Senate Bill No. 139. Copies of the bill have been distributed to all the Members of the Senate on October 20, 1987.

The President. Is there any objection? [*Silence*] There being none; the motion is approved.

Voting on Third Reading on Senate Bill No. 139 is now in order. The Secretary will please read the title of the bill only.

The Secretary. Senate Bill No. 139, entitled:

AN ACT ESTABLISHING ETHICAL STANDARDS AND UPHOLDING THE PRINCIPLES OF PUBLIC ACCOUNTABILITY FOR ALL PUBLIC OFFICIALS AND EMPLOYEES CREATING A SYSTEM OF INCENTIVES AND REWARDS, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

The President. The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

YES – 19

Senator Alvarez
Senator Angara

Senator Mercado
Senator Paterno

Senator Aquino
Senator Enrile
Senator Estrada
Senator Gonzalez
Senator Guingona
Senator Herrera
Senator Lina
Senator Maceda

Senator Pimentel
Senator Romulo
Senator Saguisag
Senator Salonga
Senator Shahani
Senator Tamano
Senator Tañada

NO – 0

ABSTENTION – 0

The President. With 19 affirmative votes, no negative vote, and no abstention, Senate Bill No. 139, as amended, is approved on Third Reading.

BILL ON THIRD READING

Senate Bill No. 137 – Confirmation of Presidential Appointments

Senator Mercado. Mr. President, I move that we vote on Third Reading on Senate Bill No. 137. Copies of the bill have been distributed to all the Members of the Senate on October 20, 1987.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

Voting on Third Reading on Senate Bill No. 137 is now in order. The Secretary will please read the title of the bill only.

The Secretary. Senate Bill No. 137, entitled:

AN ACT PROVIDING FOR THE CONFIRMATION BY THE COMMISSION ON APPOINTMENTS OF ALL NOMINATIONS AND APPOINTMENTS MADE BY THE PRESIDENT OF THE PHILIPPINES.

The President. The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

YES – 16

Senator Alvarez

Senator Lina

Senator Angara
 Senator Aquino
 Senator Enrile
 Senator Estrada
 Senator Gonzales
 Senator Guingona
 Senator Herrera

Senator Maceda
 Senator Mercado
 Senator Pimentel
 Senator Salonga
 Senator Shahani
 Senator Tamano

NO - 1

Senator Romulo
 ABSTENTION - 2

Senator Paterno
 Senator Saguisag

The President. With 16 affirmative votes, 1 negative vote, and 2 abstentions, Senate Bill No. 137, as amended, is approved on Third Reading.

EXPLANATION OF VOTE OF
 SENATOR MACEDA

Senator Maceda. Mr. President, for a brief explanation, I would like to reiterate that this proposed bill is not an expansion of the powers of the Commission on Appointments, but a reiteration, a clarification of what the Commission on Appointments can do pursuant to this bill, pursuant to the provisions of the Constitution. But more than that, this bill will effect a harmonious relation between the Executive and the Legislative Departments and assure the full restoration of a system of checks and balances which was the main intentment of the new Constitution.

I vote Yes, Mr. President.

EXPLANATION OF VOTE OF
 SENATOR PATERNO

Senator Paterno. Mr. President, I abstain from the voting for reasons already given during the proceedings.

EXPLANATION OF VOTE OF
 SENATOR ROMULO

Senator Romulo. Mr. President, may this

Representation be permitted to explain his vote?

Mr. President, the issue here is the constitutionality of Senate Bill No. 137. Is the power of the Commission on Appointments to confirm presidential appointments limited to the officers enumerated in the first sentence of Section 16, Article VII of the Constitution or, may Congress, by law, require confirmation by the Commission on Appointments of all other officers of the Government whose appointments are not otherwise provided by law, and those whom the President may be authorized by law to appoint?

In our humble view, Mr. President, Senate Bill No. 137 has traversed the permissible constitutional boundaries.

Mr. President, with his indulgence, may I read the first paragraph of Section 16, Article VII of the Constitution, the heart of the controversy?

Sec. 16. The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive departments, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or raval captain, and other officers whose appointments are vested in him in this Constitution. He shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint. The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards.

Mr. President, the words and framers' intent are clear, obvious and unmistakable. In the first sentence, the consent of the Commission on Appointments is clearly and expressly required for the officers enumerated therein, namely, the heads of the executive departments, ambassadors, other public ministers and consuls,

officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution.

In the second sentence, Mr. President, the Commission on Appointments is not mentioned thereof. Instead, the second sentence clearly states that the President shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint.

The third sentence, on the other hand, directs Congress by law to vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies commissions or boards.

Mr. President, as the Supreme Court properly ruled, among others, in *Gold Creek Mining Corporation vs. Rodriguez*, that the fundamental principle of constitutional construction is to give effect to the intent of the framers of the organic law and of the people adopting it, the intention to which force is to be given is that which is embodied and expressed in the constitutional provisions themselves.

Mr. President, Senate Bill No. 137 is unconstitutional for the following reasons:

First, the power of the Commission on Appointments to confirm presidential appointees is limited to the officers enumerated in the first sentence of Section 16, Article VII of the Constitution, namely, as I have already enumerated;

Second, appointment is intrinsically executive in character involving the exercise of discretion. The principle of separation of powers assigns the power of appointment to the Executive Branch. The Legislative cannot deprive nor diminish the presidential discretion in appointments, unless the Constitution so expressly provides. Clearly and indubitably,

the Constitution expressly authorizes the participation of the Commission on Appointments only in the first sentence of Section 16, Article VII of the Constitution;

Third, being an encroachment on the powers of a separate branch of Government, confirmation of appointments by the Commission on Appointments must be strictly construed in accordance with an expressed constitutional provision. Nowhere in such mandate is expressed in the second and third sentences of Section 16, Article VII of the Constitution. The second sentence clearly states only that the President shall also appoint all other officers of the Government. And the third sentence directs Congress by law to vest the appointment, etc.;

Fourth, under the constitutional scheme of checks and balances, certain presidential appointments are expressly subjected to confirmation by the Commission on Appointments as an exception to the general appointing power of the President. Under the 1987 Constitution, Mr. President, confirmation is specific and limited, and has no license to roam beyond the expressed constitutional boundaries. These boundaries are clearly defined and delineated in Section 16, Article VII of the Constitution. The first sentence is the constitutional territory of the President, with the consent of the Commission on Appointments. The second and third sentences are the exclusive preserve of the presidential power of appointment;

Fifth, under the Constitution, the system of checks and balances is not confined to confirmation of appointments by the Commission on Appointments. By constitutional mandate, the system of checks and balances operates on all branches and all levels of Government through Congress itself, the Senate and the House, through the Judiciary, through the press, and through the people themselves and their organizations.

In construing the role of the Commission on Appointments on the appointing power of the President, the Secretary of Justice noted the following:

As now worded, the 1987 constitutional provision would appear to have lessened the participation of the Commission on Appointment process.

Under the 1987 provision, the participation of the Commission on Appointments is limited to appointment of those officials mentioned in the first sentence of Article VII, Section 16. Example: The appointment of all other presidential appointees not falling under the first sentence are not subject to the confirming action of the Commission on Appointments. This is the clear import of the 1987 provision as the following deliberation of the Constitutional Commission would show:

MR. MAAMBONG. May I direct a question to Commissioner Foz?

The Commissioner proposed an amendment to delete "and bureaus" on Section 16. Who will then appoint the Bureau Directors, if it is not the President?

MR. FOZ. It is still the President who will appoint them but their appointments shall no longer be subject to confirmation by the Commission on Appointments.

A constitutional authority, Fr. Bernas, likewise, commented as follows :

Under the 1935 Constitution, the general rule was that all presidential appointments needed the consent of the Commission on Appointments.

Fr. Bernas continued:

The text originally proposed by the Executive Committee of the 1986 Constitutional Commission was almost an exact copy of the 1935 text. But the text as finally approved as Article VII, Section 16 of the 1987 Constitution came out differently. There are now

three sentences. The first sentence speaks of nomination, consent and appointment. The second sentence speaks only of appointment.

To explain the significance of this split and two distinct sentences, Fr. Bernas quotes Commissioner Florence Regalado, thus:

Madame President, the Committee accepts the proposed amendment because it makes it clear that those other officers mentioned therein do not have to be confirmed by the Commission on Appointments.

Mr. President, Henry Kissinger, a player with no peer in the corridors of power, once remarked that power is the supreme aphrodisiac.

To Lord Upton, Mr. President, is attributed the aphorism. Power tends to corrupt; absolute power tends to corrupt absolutely.

At the moment, Mr. President, neither Kissinger's remark nor Lord Upton's aphorism should be cause for concern to any of us.

In view, Mr. President, the Commission on Appointments, as presently constituted, is in good, responsible and upright hand. Mr. President, as long as there are men and women in the Commission on Appointments and in this Chamber of the highest moral stature with the loftiest sense of honor, integrity and patriotism as personified in the Chairman of the Commission on Appointments, our incumbent Senate President, Senator Salonga, and there are bulwarks, such bulwarks and stalwarts in the Commission on Appointments as Senator Heherson Alvarez, Senator Edgardo Angara, Senator Juan Ponce Enrile, Senator Ernesto Herrera, Senator Sotero Laurel, Senator Ernesto Maceda, Senator John Osmeña, Senator Aquilino Pimentel, Jr., Senator Santanina Rasul, Senator Leticia Ramos Shahani, Senator Mamintal Tamano, and Senator Victor Ziga, all men and women of honor, integrity, and patriotism. To paraphrase Candide: All is well in this the best of all possible worlds. But it will not

only be so, Mr. President, one day another term, other men and women, some small and petty men of lesser stature, of lesser world, of lesser quality than those that now grace this august Chamber will occupy the seats of power and will sit in judgment over their peers in the Executive Department. It is on the coming of such a day, such a term, the advent of such men and women, Mr. President, that I stand here in this august Chamber and attempt this appeal for a *No* vote. And if this appeal, Mr. President, does not perchance receive the warmth and grace of the President's welcome, then we appeal once more for his patience and understanding to defer consideration of this bill at least to another date.

And so even as I speak, Mr. President, I pray as we cast our vote that perhaps, like Saul on his way to Damascus, the light will descend upon all of us and with gentleness strike our hearts and minds with the balm of moderation, reason and restraint.

When such a moment shall have come, Mr. President, and we find ourselves, our acts and our hopes on the constitutional side of enlightened reason, restraint and progress, then that would indeed be a shining moment in our legislative history, or to paraphrase Winston Churchill, "The most unsordid act in the history of this Chamber."

Mr. President, I vote *No*.

EXPLANATION OF VOTE OF SENATOR SAGUISAG

Senator Saguisag. Thank you, Mr. President.

If it is true that Senate Bill No. 137 only confirms and does not expand powers already enjoyed by the Commission on Appointments, why have we wasted so much time on this? Now we will create disharmony, chaos and confusion.

I look at Section 16 of Article VII of the

Constitution on the basis of its text, the framer's intent, precedents and decided cases, constitutional theory and policy and moral consideration.

1. The text we rely upon, that "Congress may by law vest the appointment of inferior officers in the President alone" was in the 1935 Constitution. Still, that was never used to justify yielding to irredentist impulses and expansionist tendencies. We should not read the phrase "vest the appointment of other officers lower in rank in the President alone" as if it were something new. That was in the 1935 Constitution and yet we are not aware that any attempt was made to get what we now seek.

2. The framer's intent clearly was to delete bureau directors. It was corroborated by the failure to include the same in the text of the new Constitution. Yet, we decide in our own favor, as judges of our own cause in extremely self-serving passion. What the Con-Com dropped we continue to read in it. We negate the clear intent of the Con-Com debate. It is very hard to understand. Why do we bother to clarify things here in the debate if we have a very low opinion of what goes on during deliberations?

3. On precedents and decided cases, we are not aware of any case in point. It just occurred to me that last Tuesday, in a breakfast discussion with two constitutionalists, allusion was made to *Marbury v. Madison*, a case nearly 200 years old. What we decide this morning will be reviewed 100 years from now. We hope history will be kind to all of us. It is time we had a coherent political profile or platform. While we abdicate our solemn responsibility in difficult areas like government reorganization and wage increase, we seem over-eager, to borrow a phrase from Senator Paterno, "to grab or seize more power or turf." We have to sit back and try to imagine how this will appear in history which we hope will vindicate all of us.

4. From the standpoint of constitutional theory, it is hard to justify why lawmakers covet a power that is essentially Executive, "intrinsically an executive prerogative" in the characteristically felicitous words of the Gentleman from Mandaluyong. Instead of seeking exemptions or exceptions, we are getting everything, and giving the Executive crumbs. Even merely mentioning who may not need confirmation indicates that we may believe we can change the same, e.g., in the case of a lieutenant colonel. The Constitution clearly indicates that that should not be so. So do the constitutional debates.

5. On policy and moral considerations, it seems to me we are most vulnerable. There are scores of provisions in the new Constitution aching for implementation for the direct benefit of the people. Our priority is to benefit an already powerful Congress *vis-a-vis* a weakened Presidency. We must stand for constitutionalism. Without any discernible track record yet, within the first 60 days, we have carved out a power which the people did not give us last February 2; or at the very least, what they did not clearly give, now we are clearly giving, speaking with all due respect, to an elite group of 25 people, a virtual super-legislature, indeed a continuing constitutional convention, if we are to believe the following. According to the papers, it is even requiring security clearances from the NICA, from those who seek its blessings, a body I had thought some of us would even see abolished, a body that perhaps would not give clearances to at least five of us here. Unfortunately, the Commission would make an extremely powerful body, the NICA, would become, virtually, another Commission on Appointments, as if the power to confirm were like pizza that could be franchised.

That is why I find appealing the exhortation earlier or some days ago of Senator Romulo. Perhaps, this is the right thing. But are we

doing it in the right way, for the right reasons, and at the right time? I am not sure. That is why I was hoping the courts should be allowed to decide for us what the people exactly had wanted the select 25 to be able to do.

For purposes of public acceptability it is really better that we expand our powers not by our own doing. It would be better to have the matter tested in court. A Supreme Court pronouncement in our favor has a legitimacy to a certain extent that a self-serving piece of legislation cannot give. The composition of the current Supreme Court is the best indicator that the power, by and large, has not been irresponsibly exercised by the President.

Let us now look at the law itself.

Section 1, requires that nominations should be submitted for confirmation. But why appointments? The failure to include sectoral representatives is anomalous, to say the least. Why should Supreme Court justices have a say on the composition of the other House? Why should Senators? The sectoral appointment philosophy is enshrined in the Constitution, ratified by the people. We, those who got elected by the people, may have an understandable bias against appointed representatives. Hence, the need to put sectoral appointments above the reach of majorities and politics. The fascinating experiments should not be tampered with to give a chance to certain weak sectors to have their small voices heard in Congress.

Section 2, as I have pointed out earlier, seems to indicate a belief that we could have legislated otherwise; that is, that we could ask that the nomination of a lieutenant colonel be submitted to the Commission, for instance. Yet is very clear in the first paragraph of Section 16 when it said in a general way "and other officers whose appointments are vested in him in this Constitution" that we wanted to isolate very high or even constitutional positions. What was

the point then in having a cut-off point in the Constitution? The debates show that field officers should not be haled to the Commission so as not to weaken operational efficiency. This was made extremely clear during the exchange involving Concom Delegate, the former General, Delfino de Castro.

Section 3, on illness, has constitutional dimension. If the President is not even well enough to appoint any officer, a relatively trivial point, then maybe Section 14 of Article VII of the Constitution must operate. It cannot be delegated to a department secretary. The Vice-President must take over. Section 3 provides for the only instances of delegation. The President must be out of the country; he must be sick. There must be a national emergency. Otherwise, it cannot be delegated even for purposes of appointing anyone below the rank of Assistant Secretary. Section 3 comes later than Section 2. It may be argued that it controls or modifies Section 2. This is a sure-fire formula for inefficiency and to endless bother on the President to sign the appointment of even her hairdresser.

Section 4, mentions the need for a recess of 30 days. Section 16, in its second paragraph, does not make any distinction as to the length of days. What really is the difference as to the length of days? What really is the difference between 20 days or 40 days? What is so sacrosanct or sacramental or talismanic about 30 days?

So this is an arbitrary distinction where the Constitution does not make any distinction. It is not up to us here to be more wise than the people who gave us that Constitution.

Section 8, a relatively trivial point, goes against the clear spirit of the case of *Tañada v. Tavera* which was decided on April 24, 1985. No law of general application can become a law without first being published.

That is the clear teaching of that decision. So, I raise, my friends, the ugly spectre of litigational attrition. We long for coherence, stability and predictability. This law will bring us more confusion, instability and unpredictability. Thus a recent directive of one secretary to an assistant deputy executive secretary identifying who may be appointed by the assistant deputy executive secretary by his own signature would now be in some kind of legal limbo. And this will be duplicated all over the bureaucracy. It may take years before the courts can clarify the multiple ambiguities in the interstices of this brief but extremely dangerous statute. It will spawn a great deal of controversy in our sprawling bureaucracy.

So scores, as I have said, Mr. President, of provisions in the Constitution cry for implementation. But one of the first things we do is to expand our already ample powers, within 60 sessions days of our convening.

It is, therefore, with a greatest regret that I find myself unable to join this unconstitutional adventure. But since, as I have said, like in the first bill we passed, it may be a question of timing, maybe, if this President does not behave, we might want to review our position a year from now. But when we were all campaigning, we promised the people a lot of things, but we never promised them that we wanted to add more powers to what was already given in the Constitution.

So we are again distorting our priorities. I would hope that, maybe, we might want to review this again in the light of the wisdom of a new day. So in the meantime, I most regretfully have to abstain. That will be my position, since I have said, maybe. . . Well, I say that because I really have mixed feelings. As I was telling the distinguished Gentleman from Tarlac, I would not really know up to the last moment how I would vote. And to erase any ambiguity, I would be grateful if my vote would be record-

ed as one of abstention.

EXPLANATION OF VOTE OF SENATOR TAMANO

Senator Tamano. Mr. President, I just want to be very brief in my answer to the constitutional points that were raised this morning by my distinguished Colleagues from Tarlac and from Pasig. I just want to say that as one of the authors of this bill, we, in the Commission on Appointments, do not wish to obfuscate by filing the bill. We merely wanted to clarify. We do not seek controversy, Mr. President. In fact, we want to end controversy. We do not want to enlarge the turf of the Commission on Appointments.

But as presently constituted without this corrected bill, the Commission on Appointments might as well be abolished, because it will have a very limited, extremely limited jurisdiction. Was that the intendment of the framers of the Constitution? No, Mr. President, we do not think so. The provisions of Section 16 of Article VII of the Constitution has been quoted *ad nauseam* by the proponents of those who would like this bill to be disapproved. But, Mr. President, I say that they are correct, but the Constitution has also provided that if Congress should decide that it wants to participate in the appointing power of the President, there is no legal obstacle that was placed by the Constitution so that it left it to the discretion of Congress.

In other words, Mr. President, while Article VII of the Constitution explicitly states the quotations cited by our distinguished Colleagues enumerating those that are to be confirmed by the Commission, at the same time, the Constitution did not say that, as far as other appointments are concerned, the Congress may not participate.

What is the power of the Commission on Appointments, Mr. President? It is only to put

the searchlight of public scrutiny on the appointments of certain individuals who are entrusted with the power of government. We do not ask for more. We just want to bring that searchlight into the focus with respect to certain persons so that public will be protected. We do not ask for any enlargement of powers here, Mr. President. I beg to disagree with any imputation that the members of the Commission on Appointments seek to enlarge their powers. No, Mr. President. We just like to be consulted. We just like to know and we just like to see to it that we can protect the public interest. So as far as intention is concerned, we have the same intention as the President. And by all intendment, most of the appointments of the President will be confirmed because we belong to the same party. So the fear is unfounded, Mr. President, that the powers of the Commission will be abused. We just want that the light of public scrutiny be focused on those who are to hold great responsibility in government. If that is a sin, we admit to be guilty.

Thank you, Mr. President, and I vote a resounding Yes in favor of the bill.

EXPLANATION OF VOTE OF SENATOR ENRILE

I would like to register my affirmative vote, Mr. President, and state for the record that in my humble view, this Senate Bill No. 137, in effect, supplies the gaps that are found in the existing Constitution bearing on the power of the President to appoint and the power of the Commission on Appointments to confirm. I would like to state for the record, in my recollection, Mr. President, just a simple answer to the very lengthy arguments of my Colleague who voted negatively against this measure that under the 1935 Constitution there was a clear absence of any statement that undersecretaries must be confirmed by the Commission on Appointments. And yet, by practice of our people through their Congress and through their Com-

mission on Appointments, as in fact, I was an undersecretary under the old system, the appointments of undersecretaries were subject to the confirmation of the Commission on Appointments, which is actually a reaffirmation or an argument in favor of the power of the legislature to provide the answers to vague, ambiguous or doubtful situations under the Constitution.

So, therefore, Mr. President, I vote *Yes*.

The President. The Minority Floor Leader again.

Senator Enrile. May I also know how my vote, in regard to Senate Bill No. 139, was registered?

The President. The vote of the Minority Floor Leader is not recorded, because I remember he was out of the room.

Senator Enrile. If it is within the *Rules*, Mr. President, I would like to register an affirmative vote.

The President. Let that be recorded.

So the affirmative votes would be 18 instead of 17.

Senator Lina. Mr. President, I would like to register also an affirmative vote on Senate Bill No. 139, and at the same time, an affirmative vote on Senate Bill No. 137.

The President. All right. Let that be recorded.

So on Senate Bill No. 139, there are now 19 affirmative votes, no negative vote and two abstentions.

On Senate Bill No. 137, the following is the result: 16 affirmative votes; one negative vote; and two abstentions.

Senate Bill No. 137 is, therefore, approved on Third Reading, as amended.

Senator Mercado. Mr. President.

The President. The Majority Floor Leader.

CONFERENCE COMMITTEE REPORT
ON SENATE BILL NO. 92 AND
HOUSE BILL NO. 1947
(Resetting the Local Elections to
January 18, 1988)

Senator Mercado. I move for the consideration of the Conference Committee Report on the disagreeing provisions of Senate Bill No. 92, entitled:

AN ACT RESETTING THE LOCAL ELECTIONS FROM NOVEMBER 9, 1987 TO JANUARY 18, 1988, AMENDING FOR THIS PURPOSE EXECUTIVE ORDER NUMBERED TWO HUNDRED AND SEVENTY AND HOUSE BILL NO. 1947 ON THE SAME SUBJECT MATTER.

Mr. President, as regards this Conference Committee Report, there was a typographical error. One word was omitted on page 2 of the bill itself, when it was being typed.

On page 2, on the enumeration of people from whom officers-in-charge should be taken: a) Chief, Senior and Local Officers, I move that we insert the word GOVERNMENT between "local" and "officers." This is included in page 1 of our Conference Committee Report. It has been omitted inadvertently in the typing of the bill itself.

The President. Is there any objection to the correction? [*Silence*] There being none, the same is approved.

Senator Mercado. Mr. President, if there are no objections or amendments to the Conference Committee Report, or if there are no objections, I move that we adopt it.

The President. The Chairman of the Conference Committee is Senator Gonzales. He may wish to make some comments or explanations.

Senator Gonzales. The Conference Committee Report was unanimously approved by the Members of the Conference Committee, both from the Senate and the House of Representa-

tives. And it was Senate Bill No. 92 that was agreed upon to become the basic bill. So that this is essentially the Senate Bill, but incorporating therein a few minor changes, as requested by our counterparts from the House of Representatives. And so, since this is basically the same bill, nothing much have really been changed. We, in the Conference Committee representing the Senate would urge the approval of this Conference Committee Report.

The President. Is there any objection to the approval of this Conference Committee Report on Senate Bill No. 92, House Bill No. 1947? [*Silence*] There being none, the same is approved.

BILL ON SECOND READING

Senate Bill No. 168 – Armed Forces New Base Pay Rates

Senator Mercado. Mr. President, with the consent of the Body, I move that we consider Committee Report No. 23 on Senate Bill No. 168, submitted by the Committee on National Defense and Security, entitled:

AN ACT TO ESTABLISH NEW RATES OF BASE PAY OF MILITARY AND CIVILIAN PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES, APPROPRIATING FUNDS THEREFOR

I move that we recognize Senator Maceda to sponsor the bill.

The President. Senator Maceda is recognized.

SPONSORSHIP SPEECH BY SENATOR MACEDA

Senator Maceda. Mr. President, distinguished Colleagues:

The other day this august Chamber approved the bill that increased the minimum wage for the private sector, as well as some relief for daily wage workers in the government sector. As stated, Mr. President, by the Gentleman from Tarlac and Quezon City, there is now under consideration in the Committees, a bill for the

standardization of salaries of all government employees. In addition to that, in the budgetary process being handled by the Committee on Finance, the implementation of many salary adjustments, as covered by previous executive orders issued before the opening of Congress, had been included.

This particular bill now seeks to take care of another sector of our vast government employeedom. As we know, there are 1,500,000 government employees, and the Department of National Defense and the Armed Forces of the Philippines account for about 200,000 of the same. And so, it is in that regard that this particular matter has appropriately been given priority and preference and even certified by the Executive Department, in order to continue this ongoing constitutional mandate as established in the Transitory Provisions of the Constitution, to consider the upgrading of the salaries of government employees.

Further, Mr. President, the House of Representatives has acted on this expeditiously, as shown by the fact that almost four-fifths of the Members of the House authored this bill.

Mr. President, we are aware of the present situation of the country in terms of the insurgency and peace-and-order situation. And so, I think it is but proper that those who are in the frontlines should be given this special consideration. According to the latest figures we have received during one of the hearings in the Committee on National Defense and Security, in the Committee on Finance, and in the Committee on Local Government, to date, no less than 600 military officers and enlisted men have been killed for the year 1987, from January 1 to this day. And of course, scores more have been wounded.

Mr. President, as stated in the Explanatory Note of both bills – Senate Bill No. 168 of the Senate and House Bill No. 1681 of the House –