

REPUBLIC OF THE PHILIPPINES
S E N A T E

First Regular Session



10:15 am
VZL

COMMITTEE REPORT NO. 30

Submitted by the Committee on Civil Service and Government Reorganization

R E : Senate Bill No. 38

Recommending its approval without amendments.

Sponsor: Senator Neptali Gonzales

Mr. President:

The Committee on Civil Service and Government Reorganization to which was referred Senate Bill No. 38 entitled:

AN ACT
REPEALING SECTION FORTY OF PRESIDENTIAL DECREE
NUMBERED EIGHT HUNDRED SEVEN, OTHERWISE KNOWN
AS THE CIVIL SERVICE DECREE.

has considered the same and has the honor to report it back to the Senate with the recommendation that the Bill be approved without amendments.

This report concurs with the original Committee Report on Senate Bill No. 38 filed by the Committee on Civil Service and Government Reorganization on September 1, 1987. No. 4

Respectfully submitted,

Santanina Tillah Rasul
SANTANINA TILLAH RASUL
Chairman
Committee on Civil Service
and Government Reorganization



COMMITTEE REPORT NO. _____

SENATE BILL NO. 38

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Vicente J. Paterno
VICENTE PATERNO
Vice-Chairman

MEMBERS:

1. *Edgardo J. Angara*
EDGARDO J. ANGARA
2. ~~*Sestali Gonzales*~~
~~SESTALI GONZALES~~
3. *Sotero H. Laurel*
SOTERO H. LAUREL
4. *Jose Lina Jr.*
JOSE LINA JR.
5. ~~*Ernesto M. Maceda*~~
~~ERNESTO M. MACEDA~~
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AGUILINO PIMENTEL, JR.
7. *Rene A. V. Saguisag*
RENE A. V. SAGUISAG
8. LETICIA RAMOS-SHAHANI *not a member*
9. *Walter E. Tanada*
WALTER E. TANADA
10. *Victor S. Ziga*
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11. *Juan Ponce Enrile*
JUAN PONCE ENRILE

HON. JOVITO R. SALONGA
President of the Senate
Manila



*Civil Service Act
Gonzales*

CONGRESS OF THE PHILIPPINES
SENATE
MANILA

FIRST REGULAR SESSION

SENATE BILL NO. 38

Introduced by Senator Neptali A. Gonzales

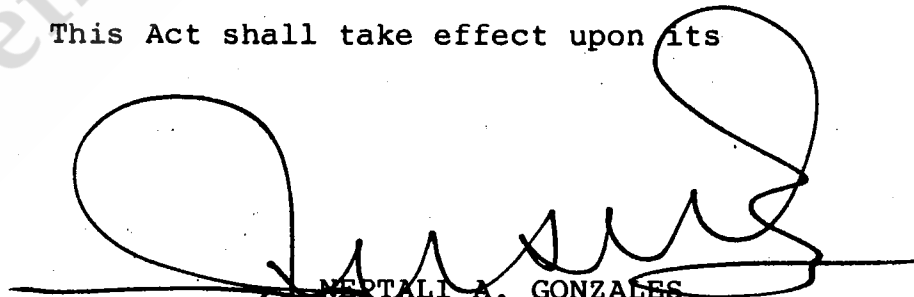
AN ACT REPEALING SECTION FORTY OF PRESIDENTIAL
DECREE NUMBERED EIGHT HUNDRED SEVEN, OTHERWISE
KNOWN AS THE CIVIL SERVICE DECREE.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTA-
TIVES IN CONGRESS ASSEMBLED:

1 SEC. 1. Section Forty of Presidential Decree
2 Numbered Eight Hundred Seven, otherwise known as the
3 Civil Service Decree, is hereby repealed.

4 SEC. 2 This Act shall take effect upon its
5 approval.



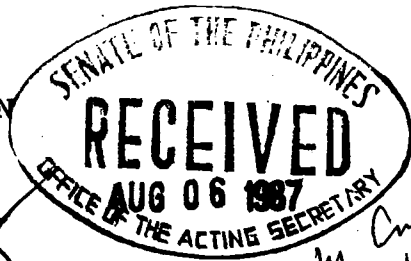

NEPTALI A. GONZALES
Senator

38

CONGRESS OF THE PHILIPPINES
SENATE
MANILA

FIRST REGULAR SESSION

SENATE BILL NO. 38



M. Cruz
11:45 AM

x - - - - - x

Introduced by Senator Neptali A. Gonzales

x - - - - - x

EXPLANATORY NOTE

This bill seeks to repeal Section 40 of P.D. No. 807, otherwise known as the Civil Service Decree, which provides, as follows:

"SEC. 40. Summary Proceedings. - No formal investigation is necessary and the respondent may be immediately removed or dismissed if any of the following circumstances is present:

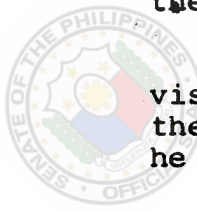
(a) When the charge is serious and the evidence of guilt is strong.

(b) When the respondent is a recidivist or has been repeatedly charged and there is reasonable ground to believe that he is guilty of the present charge.

(c) When the respondent is notoriously undesirable.

Resort to summary proceedings by disciplining authority shall be done with utmost objectivity and impartiality to the end that no injustice is committed: Provided, That removal or dismissal except those by the President, himself, or upon his order, may be appealed to the Commission."

This provision was originally embodied in Section 3 of P.D. No. 6 which was issued by the President on



September 27, 1972, only six (6) days after the entire country was placed under martial law. As a martial law measure, the constitutionality and propriety of this provision may not be objectionable, more so when we consider the grant of broad and sweeping reorganization powers to the President under Section 9 of Article XVII (Transitory Provisions) of the New Constitution which came into effect on January 17, 1973, to wit:

"SEC. 9. All officials and employees in the existing Government of the Republic of the Philippines shall continue in office until otherwise provided by law or decreed by the incumbent President of the Philippines, but all officials whose appointments are by this Constitution vested in the Prime Minister shall vacate their respective offices upon the appointment and qualification of their successors."

As a result of this summary proceedings, a number of public officials and employees were "purged" from the Government service because they were declared to be "notoriously undesirable", whenever the administration wanted to make a big show of its campaign to clean the government. One cannot help but recall the public execution by the President of a number of officials and employees at the Luneta sometime during the early years of martial law.

Reputations were ruined and characters assassinated without the victim being afforded the rudimentary requirements of due process. That injustices were committed in the process could be seen when, after the lapse of just a little time, the "purged" officials or employees were quietly reappointed and paid back salaries and other benefits.

This is not say that the "purged" officials or employees are innocent. Many of them should really be booted out of office. What is stressed is that injustice is built-in summary proceedings.

Section 2 (3) of Article IX of the 1987 Constitution provides:

"No officer or employee in the Civil Service shall be removed or suspended except for cause as provided by law."

The security of tenure under this provision, so vital in the career concept of the Civil Service, reaches all officers and employees belonging to the Civil Service. And since a civil service officer or employee can only be suspended or dismissed "for cause", necessarily, the proceedings leading thereto must satisfy the due process requirements, the minimum of which are the Siamese twins of notice and hearing. "For cause" negates any proceeding that is summary. Hence, Section 36 of P.D. No. 807, otherwise known as the Civil Service Decree provides:

"SEC. 36. Discipline: General Provisions. - (a) No officer or employee in the Civil Service shall be suspended or dismissed except for cause as provided by law and after due process.

X X X X X X X X".

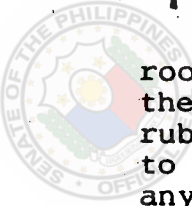
Section 40 of the same Decree on "Summary Proceedings" is thus a contradiction of Section 36 thereof.

In retrospect, it may be pointed out that substantially the same bill was filed by this author as Parliamentary Bill No. 302 on August 7, 1984 in the Batasang Pambansa. However, as a bill calling for the absolute repeal of Section 40 of the Civil Service Decree it was doomed from the very start considering the

political complexion of the Batasang Pambansa. To ensure passage of a measure that will relieve civil services officers and employees from the oppresiveness and arbitrariness of Section 40 of P. D. No. 807, Parliamentary Bill No. 302 was amended by defining the grounds and detailing the procedure before removal or suspension through summary proceedings can be made. This revised version was passed by the Batasang Pambansa. But even in this diluted form, Parliamentary Bill No. 302 was vetoed by former President Marcos.

It is submitted that with the restoration of democracy and the commitment of this government to the strenghtening of the civil service, outright repeal of this section is now imperative.

There may indeed be a public outcry for cleansing the government service of corrupt and dishonest officers and employees. The same can be done with due regard to the interests of justice and fair play. To those who are impatient and demand swift action, let then ponder over these words of counsel of Mr. Justice Felix Frankfurter, when he said:

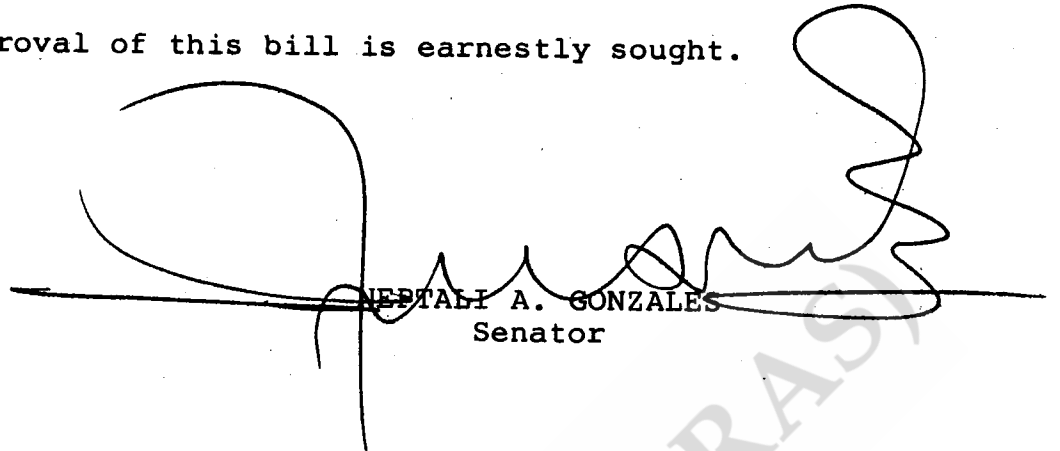


"... But the procedural devices rooted in experience were written into the Bill of Rights not as abstract rubrics in an elegant code but in order to assure fairness and justice before any person could be deprived of life, liberty or property."

That a person shall not be deprived of life, liberty, or property without an opportunity to be heard in defense of his right is a rule founded on the first principles of natural justice, and is older than written constitutions. There can be no constitution for "good

guys" only and another for "bad buys". This is the kind of justice in which we stake our life and fate.

Approval of this bill is earnestly sought.



NEPTALI A. GONZALES
Senator



Senate Archives (LRAS)

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FIRST CONGRESS OF THE SIXTH)
REPUBLIC OF THE PHILIPPINES)

First Regular Session
Metro Manila

SENATE BILL NO. 38

Introduced by Senators Gonzales and Guingona

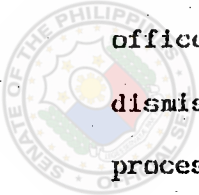
1 AN ACT AMENDING SECTIONS THIRTY-SIX,
2 THIRTY-SEVEN, THIRTY-EIGHT, THIRTY-NINE,
3 FORTY, FORTY-ONE, FORTY-TWO AND FORTY- THREE
4 OF ARTICLE NINE OF PRESIDENTIAL DECREE NO. 807, KNOWN AS
5 THE CIVIL SERVICE DECREE


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

6 SECTION 1. Section 36, Article IX, of Presidential Decree No.
7 807, known as the Civil Service Decree, is hereby amended to read as
8 follows :

9 "ARTICLE IX. DISCIPLINE

10 "Sec. 36. Discipline : General Provisions.-- (a) No
11 officer or employe in the Civil Service shall be suspended or
12 dismissed except for cause as provided by law and after due
13 process.



- 1 (b) The following shall be grounds for disciplinary action:
- 2 (1) Dishonesty;
- 3 (2) Oppression;
- 4 (3) Neglect of duty;
- 5 (4) Misconduct
- 6 (5) Disgraceful and immoral conduct;
- 7 [(6) Being notoriously undesirable;]
- 8 [(7)] (6) Discourtesy in the course of official
- 9 duties;
- 10 [(8)] (7) Inefficiency and incompetence in performance
- 11 of official duties;
- 12 [(9)] (8) DELIBERATELY receiving for personal use of a
- 13 fee, gift or other valuable thing in the
- 14 course of official duties or in connection
- 15 therewith when such fee, gift, or other
- 16 valuable thing is given by any person in the
- 17 hope or expectation of receiving a favor or
- 18 better treatment than that accorded other
- 19 persons, or committing acts punishable under
- 20 the anti-graft laws;
- 21 [(10)] (9) Conviction of a crime involving moral
- 22 turpitude;
- 23 [(11)] (10) Improper or unauthorized solicitation of
- 24 contributions from teachers or school
- 25 officials from school children;
- 

- 1 [(12)] (11) Violation of existing Civil Service Law and
2 rules or reasonable office regulation;
- 3 [(13)] (12) Falsification of official document;
- 4 [(14)] (13) Frequent unauthorized absences or tardiness
5 in reporting for duty, loafing or frequent
6 unauthorized absences from duty during
7 regular office hours;
- 8 [(15)] (14) Habitual drunkenness;
- 9 [(16)] (15) Gambling prohibited by law;
- 10 [(17)] (16) UNJUSTIFIED refusal to perform official duty
11 or render overtime service;
- 12 [(18)] Disgraceful, immoral or dishonest conduct
13 prior to entering the service;]
- 14 [(19)] (17) Physical or mental incapacity or disability
15 due to immoral or vicious habits;
- 16 [(20)] (18) Borrowing money by superior officers from
17 subordinates or lending by subordinates to
18 superior officers;
- 19 [(21)] (19) Lending money at usurious rates of interest;
- 20 [(22)] (20) Willful failure to pay just debts or willful
21 failure to pay taxes due to the government;
- 22 [(23)] (21) Contracting loans of money or other property
23 from persons with whom the office of the
24 employee concerned has business relations;



- 1 [(24)] (22) Pursuit of private business, vocation or
2 profession without the permission required
3 by Civil Service rules and regulations;
4 [(25)] (23) Insubordination;
5 [(26)] (24) Engaging directly or indirectly in partisan
6 political activities by one holding non-
7 political office;
8 [(27)] (25) Conduct prejudicial to the best interest of
9 the service;
10 [(28)] (26) Lobbying for personal interest or gain in
11 legislative halls and offices without
12 authority;
13 [(29)] (27) Promoting the sale of tickets in behalf of
14 private enterprises that are not intended
15 for charitable or public welfare purposes
16 and even in the latter cases if there is no
17 prior authority;
18 [(30)] (28) Nepotism as defined in Section 49 of this
19 Decree;
20 (29) ENGAGING DIRECTLY OR INDIRECTLY IN
21 ACTIVITIES THAT AID, SUPPORT, AGITATE, OR
22 ESPOUSE THE OVERTHROW OF DULY CONSTITUTED
23 AUTHORITY; AND
24 (30) JOINING, SUPPORTING OR ENGAGING IN ACTS OF
25 INSURRECTION, REBELLION, SEDITION, AND OTHER
26 CRIMES AGAINST PUBLIC ORDER AS DEFINED IN



1 TITLE THREE, BOOK TWO OF THE REVISED PENAL
2 CODE AND CRIMES AGAINST NATIONAL SECURITY
3 AND THE LAW OF NATIONS AS DEFINED IN TITLE
4 ONE, BOOK TWO, CHAPTERS ONE, TWO, AND THREE
5 OF THE REVISED PENAL CODE.

6 "[(c) Except when initiated by the disciplining
7 authority, no complaint against a civil service official or
8 employee shall be given due course unless the same is in writing
9 and subscribed and sworn to by the complainant.]

10 "[(d) In meting out punishment, the same penalties shall
11 be imposed for similar offenses and only one penalty shall be
12 imposed in each case. The disciplining authority may impose the
13 penalty of removal from the service, transfer, demotion in rank,
14 suspension for not more than one year without pay, fine in an
15 amount not exceeding six months' salary, or reprimand.]"

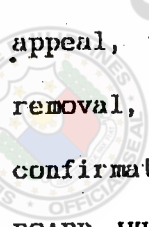
16 SEC. 2. Section 37 of the same Decree is hereby amended to read
17 as follows:

18 "Sec. 37. Disciplinary Jurisdiction. --JURISDICTION IS
19 VESTED IN THE FOLLOWING:

20 (a) The JURISDICTION OF THE CIVIL SERVICE Commission
21 [shall decide upon appeal all administrative disciplinary cases
22 involving the imposition of a penalty of suspension for more than
23 thirty days, or fine in an amount exceeding thirty days' salary,
24 demotion in rank or salary or transfer, removal or dismissal from
25 office. A complaint may be filed directly with the Commission by
26 a private citizen against a government official or employee in

1 which case it may hear and decide the case or it may deputize any
2 department or agency or official or group of officials to conduct
3 the investigation. The results of the investigation shall be
4 submitted to the Commission with recommendation as to the penalty
5 to be imposed or other action to be taken] IS CONCURRENT WITH
6 OTHER DISCIPLINING AUTHORITIES BUT EXCLUSIVE WITH RESPECT TO THE
7 LAST TWO GROUNDS IN THE PRECEDING SECTION. IT IS THE FINAL
8 ADMINISTRATIVE BODY BEFORE WHICH DECISION ON DISCIPLINARY CASES
9 MAY BE APPEALED, AS PROVIDED IN THIS ACT. ITS DECISIONS ARE
10 REVIEWABLE ONLY BY THE SUPREME COURT.

11 " (b) The [heads of departments, agencies and
12 instrumentalities, provinces, cities and municipalities shall
13 have jurisdiction to investigate and decide matters involving
14 disciplinary action against officers and employees under their
15 jurisdiction. Their decisions shall be final in case the penalty
16 imposed is suspension for not more than thirty days' salary. In
17 case the decision rendered by a bureau or office head is
18 appealable to the Commission, the same may be initially appealed
19 to the department and finally to the Commission and pending
20 appeal, the same shall be executory except when the penalty is
21 removal, in which case the same shall be executory only after
22 confirmation by the department head] MERIT SYSTEMS PROTECTION
23 BOARD WHOSE JURISDICTION IS CONCURRENT WITH OTHER DISCIPLINING
24 AUTHORITIES, EXCEPT THE COMMISSION. IT HAS APPELLATE
25 JURISDICTION INVOLVING DECISIONS OF DISCIPLINARY AUTHORITIES
26 OTHER THAN THE COMMISSION. ITS DECISIONS ARE REVIEWABLE ONLY BY
THE COMMISSION.



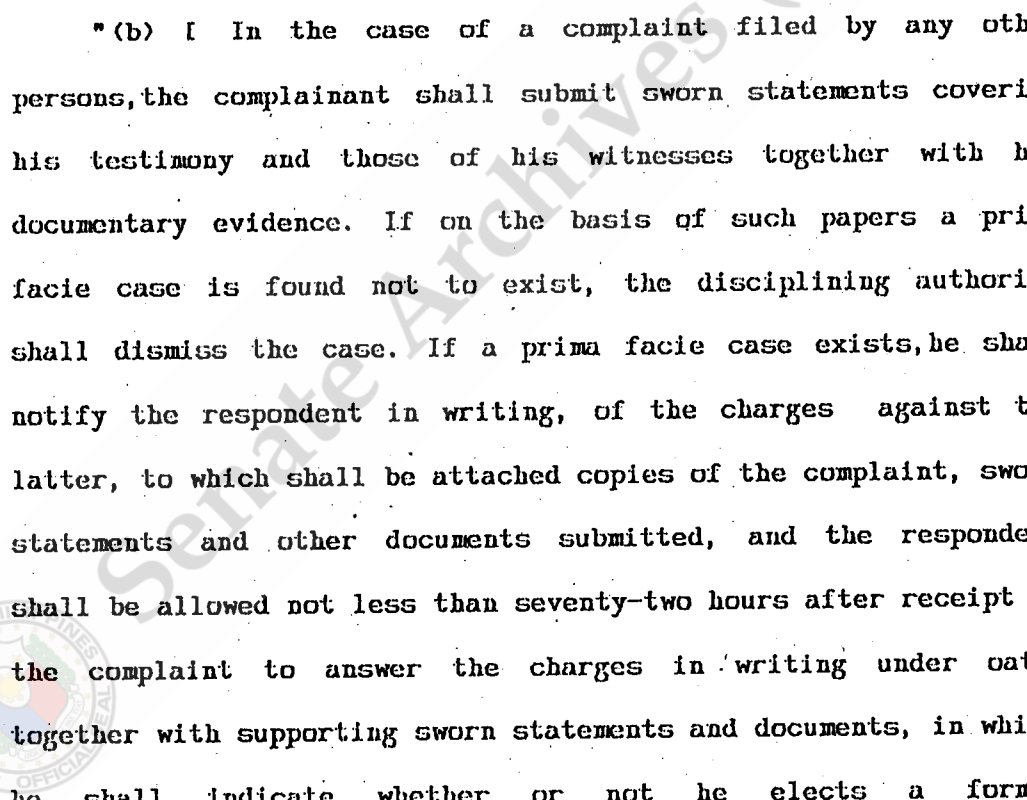
1 "(c) [An investigation may be entrusted to regional
2 director or similar officials who shall make the necessary report
3 and recommendation to the chief of bureau or office or department
4 within the period specified in Paragraph d of the following
5 Section.] THE HEADS OF DEPARTMENTS, AGENCIES AND
6 INSTRUMENTALITIES, PROVINCES, CITIES AND MUNICIPALITIES,
7 - INCLUDING GOVERNING BOARDS OF GOVERNMENT OWNED AND CONTROLLED
8 CORPORATIONS, STATE COLLEGES AND UNIVERSITIES, AND OTHER
9 GOVERNMENT ENTITIES, SHALL HAVE JURISDICTION TO INVESTIGATE AND
10 DECIDE MATTERS INVOLVING DISCIPLINARY ACTION AGAINST THEIR
11 SUBORDINATES. THEIR DECISION SHALL BE FINAL IN CASE THE PENALTY
12 IMPOSED IS SUSPENSION FOR NOT MORE THAN SIXTY DAYS OR FINE IN AN
13 AMOUNT NOT EXCEEDING SIXTY DAYS' SALARY, IN CASE THE DECISION
14 RENDERED BY A BUREAU OR OFFICE HEAD IS APPEALABLE, THE SAME MAY
15 BE INITIALLY APPEALED TO THE MERIT SYSTEMS PROTECTION BOARD, AND
16 FINALLY TO THE COMMISSION.

17 "(d) An appeal shall not stop the decision from being
18 executory, and in case the penalty is suspension or removal
19 the respondent shall be [considered as having been under
20 preventive suspension during the pendency of the appeal] PAID HIS
21 BACK SALARIES INCLUDING THE PERIOD OF HIS PREVENTIVE SUSPENSION
22 in the event he wins [an] THE appeal."

23 SEC. 3. Section 38 of the same Decree is hereby amended to read
24 as follows:

1 "Sec. 38 Procedure in Administrative Cases Against Non-
2 Presidential Appointees -- (a) [Administrative] DISCIPLINARY
3 proceedings [may] SHALL be commenced against a subordinate
4 officer or employee THROUGH A FORMAL CHARGE by the OFFICIAL
5 VESTED WITH AUTHORITY TO INITIATE THE SAME AS PROVIDED IN SECTION
6 37 HEREOF EITHER MOTU PROPIO OR UPON THE SWORN COMPLAINT IN
7 WRITING OF ANY OTHER PERSON(S). [head of department or office of
8 equivalent rank, or head of local government, or chiefs of
9 agencies, or regional directors, or upon sworn, written complaint
10 of any other persons.]

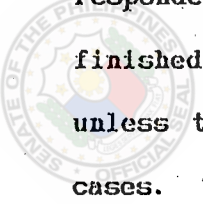
11 "(b) [In the case of a complaint filed by any other
12 persons, the complainant shall submit sworn statements covering
13 his testimony and those of his witnesses together with his
14 documentary evidence. If on the basis of such papers a prima
15 facie case is found not to exist, the disciplining authority
16 shall dismiss the case. If a prima facie case exists, he shall
17 notify the respondent in writing, of the charges against the
18 latter, to which shall be attached copies of the complaint, sworn
19 statements and other documents submitted, and the respondent
20 shall be allowed not less than seventy-two hours after receipt of
21 the complaint to answer the charges in writing under oath,
22 together with supporting sworn statements and documents, in which
23 he shall indicate whether or not he elects a formal
24 investigation. If his answer is not considered satisfactory. If
25 the answer is found satisfactory, the disciplining authority
26 shall dismiss the case.] THE FORMAL CHARGE SHALL: (A) INFORM THE
27 RESPONDENT THAT AFTER A PRELIMINARY EXAMINATION, IT HAS BEEN



1 FOUND THAT A PRIMA FACIE CASE EXISTS AGAINST HIM FOR THE OFFENSE
2 OR IRREGULARITY MENTIONED THEREIN; (B) SPECIFY THE MANNER OF THE
3 COMMISSION OF THE OFFENSE; (C) STATE THE PERIOD WITHIN WHICH THE
4 RESPONDENT MUST ANSWER THE COMPLAINT (WHICH SHALL NOT BE LESS
5 THAN SEVENTY-TWO HOURS NOR MORE THAN FIVE DAYS FROM RECEIPT OF
6 THE FORMAL CHARGE); (D) INFORM THE RESPONDENT THAT HE HAS AN
7 OPTION TO ELECT A FORMAL INVESTIGATION OR TO WAVE THE SAME; AND
8 (E) STATE THAT THE RESPONDENT IS ENTITLED TO ASSISTANCE BY A
9 COUNSEL OF HIS CHOICE.

10 "(c) [Although a respondent does not request a formal
11 investigation, one shall nevertheless be conducted when from the
12 allegations of the complaint and the answer of the respondent,
13 including the supporting documents, the merits of the case cannot
14 be decided judiciously without conducting such an investigation.]
15 IN CASES INITIATED MOTO PROPRIO. THE FORMAL CHARGE SHOULD SPECIFY
16 THE OFFENSE(S) ALLEGED TO HAVE BEEN COMMITTED AND SHALL BE
17 ACCOMPANIED BY ALL EVIDENCE IN SUPPORT OF THE CHARGE(S).

18 "(d) [The investigation shall be held not earlier than
19 five days nor later than ten days from the date of receipt of
20 respondent's answer by the disciplining authority, and shall be
21 finished within thirty days from the filing of the charges,
22 unless the period is extended by the Commission in meritorious
23 cases. The decision shall be rendered by the disciplining
24 authority within thirty days from the termination of the
25 investigation or submission of the report of the investigator,
26 which report shall be submitted within fifteen days from the
27 conclusion of the investigation.] IN THE CASE OF A COMPLAINT



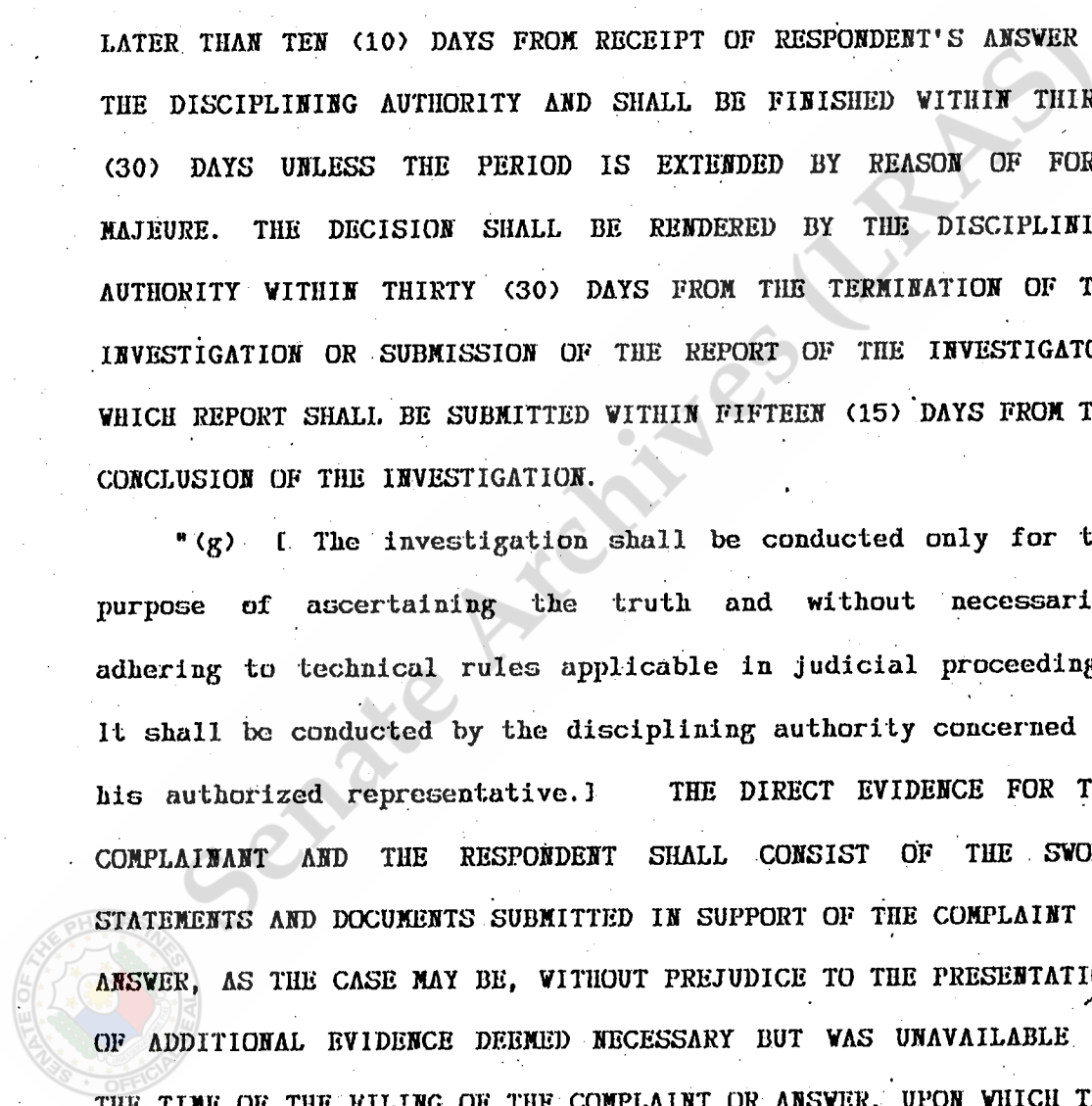
1 FILED BY ANY OTHER PERSON, THE COMPLAINANT SHALL SUBMIT SWORN
2 STATEMENTS COVERING HIS TESTIMONY AND THOSE OF HIS WITNESSES
3 TOGETHER WITH HIS DOCUMENTARY EVIDENCE. IF ON THE BASIS OF SUCH
4 PAPERS A PRIMA FACIE CASE IS FOUND TO EXIST, THE DISCIPLINING
5 AUTHORITY SHALL ISSUE THE FORMAL CHARGE TO THE RESPONDENT TO
6 WHICH SHALL BE ATTACHED COPIES OF THE COMPLAINT, SWORN STATEMENTS
7 AND OTHER DOCUMENTS SUBMITTED BY THE COMPLAINANT AND REQUIRING
8 THE RESPONDENT TO ANSWER THE CHARGE. THE RESPONDENT SHALL
9 ATTACH TO HIS ANSWER, HIS SWORN STATEMENT COVERING HIS TESTIMONY
10 AS WELL AS THE SWORN STATEMENTS OF HIS WITNESSES AND OTHER
11 DOCUMENTS IN SUPPORT OF HIS DEFENSE. HE SHALL ALSO STATE IN HIS
12 ANSWER WHETHER OR NOT HE ELECTS A FORMAL INVESTIGATION. IF THE
13 ANSWER IS FOUND SATISFACTORY, THE DISCIPLINING AUTHORITY SHALL
14 DISMISS THE CASE.

15 "(e) [The direct evidence for the complainant and the
16 respondent shall consist of the sworn statement and documents
17 submitted in support of the complaint or answer as the case may
18 be, without prejudice to the presentation of additional evidence
19 deemed necessary but was unavailable at the time of the filing of
20 the complaint or answer, upon which the cross-examination, by
21 respondent and the complainant, respectively, shall be based.
22 Following cross-examination there may be redirect and recross-
23 examination.] ALTHOUGH A RESPONDENT DOES NOT REQUEST A FORMAL
24 INVESTIGATION, ONE SHALL NEVERTHELESS BE CONDUCTED WHEN FROM THE
25 ALLEGATIONS OF THE COMPLAINT AND THE ANSWER OF THE RESPONDENT,
26 INCLUDING THE SUPPORTING DOCUMENTS, THE MERITS OF THE CASE CANNOT
27 BE DECIDED JUDICIOUSLY WITHOUT CONDUCTING SUCH INVESTIGATION.

71

1 "(f) [Either party may avail himself of the services of
2 counsel and may require the attendance of witnesses and the
3 production of documentary evidence in his favor through the
4 compulsory process of subpoena or subpoena duces tecum.] THE
5 INVESTIGATION SHALL BE HELD NOT EARLIER THAN FIVE (5) DAYS NOR
6 LATER THAN TEN (10) DAYS FROM RECEIPT OF RESPONDENT'S ANSWER BY
7 THE DISCIPLINING AUTHORITY AND SHALL BE FINISHED WITHIN THIRTY
8 (30) DAYS UNLESS THE PERIOD IS EXTENDED BY REASON OF FORCE
9 MAJEURE. THE DECISION SHALL BE RENDERED BY THE DISCIPLINING
10 AUTHORITY WITHIN THIRTY (30) DAYS FROM THE TERMINATION OF THE
11 INVESTIGATION OR SUBMISSION OF THE REPORT OF THE INVESTIGATOR,
12 WHICH REPORT SHALL BE SUBMITTED WITHIN FIFTEEN (15) DAYS FROM THE
13 CONCLUSION OF THE INVESTIGATION.

14 "(g) [The investigation shall be conducted only for the
15 purpose of ascertaining the truth and without necessarily
16 adhering to technical rules applicable in judicial proceedings.
17 It shall be conducted by the disciplining authority concerned or
18 his authorized representative.] THE DIRECT EVIDENCE FOR THE
19 COMPLAINANT AND THE RESPONDENT SHALL CONSIST OF THE SWORN
20 STATEMENTS AND DOCUMENTS SUBMITTED IN SUPPORT OF THE COMPLAINT OR
21 ANSWER, AS THE CASE MAY BE, WITHOUT PREJUDICE TO THE PRESENTATION
22 OF ADDITIONAL EVIDENCE DEEMED NECESSARY BUT WAS UNAVAILABLE AT
23 THE TIME OF THE FILING OF THE COMPLAINT OR ANSWER, UPON WHICH THE
24 CROSS-EXAMINATION, BY RESPONDENT AND THE COMPLAINANT,
25 RESPECTIVELY, SHALL BE BASED. FOLLOWING CROSS-EXAMINATION, THERE
26 MAY BE REDIRECT OR RE-CROSS-EXAMINATION.



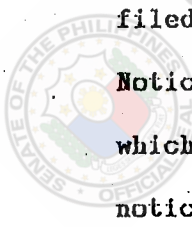
1 [The phrase "any other party" shall be understood to be a
2 complainant other than those referred to in subsection (a)
3 hereof.]

4 "(H) THE RESPONDENT MAY AVAIL HIMSELF OF THE SERVICES OF
5 COUNSEL AND MAY REQUIRE THE ATTENDANCE OF WITNESSES AND THE
6 PRODUCTION OF DOCUMENTARY EVIDENCE IN HIS FAVOR THROUGH THE
7 COMPULSORY PROCESS OF SUBPOENA OR SUBPOENA DUCES TECUM.

8 "(I) THE INVESTIGATION SHALL BE CONDUCTED ONLY FOR THE
9 PURPOSE OF ASCERTAINING THE TRUTH AND WITHOUT NECESSARILY
10 ADHERING TO TECHNICAL RULES APPLICABLE IN JUDICIAL PROCEEDINGS.
11 IT SHALL BE CONDUCTED BY THE DISCIPLINING AUTHORITY CONCERNED OR
12 HIS AUTHORIZED REPRESENTATIVE."

13 SEC. 4. Section 39 of the same Decree is hereby amended to read
14 as follows:

15 "Sec. 39. Appeals. -- [(a)] Appeals, where allowable,
16 [shall] MAY be made ONLY by the [party adversely affected by the
17 decision] RESPONDENT within fifteen days from receipt of the
18 decision unless a petition for reconsideration is seasonably
19 filed, which petition shall be decided within fifteen days.
20 Notice of the appeal shall be filed with the disciplining office,
21 which shall forward the records of the case, together with the
22 notice of appeal, to the appellate authority within fifteen days
23 from filing of the notice of appeal, with its comment, if any.
24 The notice of appeal shall specifically state the date of the
25 decision appealed from and the date of receipt thereof. It shall



1 also specifically set forth clearly the grounds relied upon for
2 excepting from the decision.

3 "(b) A petition for reconsideration shall be based only
4 on any of the following grounds: (1) new evidence has been
5 discovered which materially affects the decision rendered; (2)
6 the decision is not supported by the evidence on record; or (3)
7 errors of law or irregularities have been committed prejudicial
8 to the interest of the respondent: Provided, That only one
9 petition for reconsideration shall be entertained.]"

10 SEC. 5. The provision of Section 40 of the same Decree, on summary
11 proceedings, is hereby repealed and in lieu thereof a new provision
12 is hereby substituted to read as follows:

13 "Sec. 40. [Summary Proceedings.- No formal investigation is
14 necessary and the respondent may be immediately removed or
15 dismissed if any of the following circumstances is present:

16 (a) When the charge is serious and the evidence of guilt is
17 strong.

18 (b) When the respondent is a recidivist or has been
19 repeatedly charged and there is reasonable ground to believe that
20 he is guilty of the present charge.

21 (c) When the respondent is notoriously undesirable."

22 "Resort to summary proceedings by disciplining authority
23 shall be done with utmost objectivity and impartiality to the end
24 that no injustice is committed : Provided, That removal or
25 dismissal except those by the President, himself, or upon his
26 order, may be appealed to the Commission. } PETITION FOR

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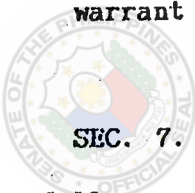
1 RECONSIDERTION : BASES OF PETITION - A PETITION FOR
2 RECONSIDERATION SHALL BE BASED ONLY ON ANY OF THE FOLLOWING
3 GROUNDS : (A) NEW EVIDENCE HAS BEEN DISCOVERED WHICH MATERIALLY
4 AFFECTS THE DECISION RENDERED; (B) THE DECISION IS NOT SUPPORTED
5 BY THE EVIDENCE ON RECORD: (C) ERRORS OF LAW OR IRREGULARITIES
6 HAVE BEEN COMMITTED PREJUDICIAL TO THE INTEREST OF THE
7 RESPONDENT: PROVIDED, THAT ONLY ONE PETITION FOR RECONSIDERATION
8 SHALL BE ENTERTAINED."

9 SEC. 6. Section 41 of the same Decree is hereby amended to read
10 as follows:

11 "Sec. 41. Preventive Suspension.-- The proper
12 disciplining authority may preventively suspend [any subordinate
13 officer or employee under his authority pending an] THE
14 RESPONDENT BUT NOT UNTIL THE START OF THE FORMAL investigation,
15 if the charge against such officer or employee involves
16 dishonesty, DISLOYALTY, oppression or grave misconduct, or
17 neglect in the performance of duty, or if there are reasons to
18 believe that the Respondent is guilty of charges which would
19 warrant his removal from office."

20 SEC. 7. Section 42 of the same Decree is hereby amended to read
21 as follows:

22 "Sec. 42. Lifting of Preventive Suspension Pending
23 Administrative Investigation. -- When the administrative case
24 against the [officer or employee] RESPONDENT under preventive



1 suspension is not finally decided by the disciplining authority
2 within the period of ninety (90) days after the date of
3 suspension of the respondent [who is not a presidential
4 appointee the respondent] HE shall be automatically reinstated
5 in the service; Provided, That when the delay in the disposition
6 of the case is due to the fault, negligence or petition of the
7 respondent, the period of delay shall not be counted in computing
8 the period of suspension herein provided. IF THE RESPONDENT IS
9 EXONERATED, HE SHALL BE PAID HIS BACK SALARIES INCLUDING THE
10 PERIOD OF HIS PREVENTIVE SUSPENSION."

11 SEC. 8. Section 43 of the same Decree is hereby amended to read
12 as follows:

13 "Sec. 43. Removal of Administrative Penalties or
14 Disabilities.- [In meritorious cases and upon] UPON
15 recommendation of the Commission, the President may commute or
16 remove administrative penalties or disabilities imposed upon
17 officers or employees in disciplinary cases, subject to such
18 terms and conditions as he may impose in the interest of the
19 service."

20 SEC. 9. This Act shall take effect immediately upon its approval.

A P P R O V E D,