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Senator Mamintal Abdul J. Tamano . Present
 Senator Wigberto E. Tañada Present
 Senator Victor S. Ziga Present
 The President Present

The President. With 17 Senators present, there is a quorum.

THE JOURNAL

Senator Mercado. Mr. President, I move that we dispense with the reading of the *Journal* of the previous session and consider the same as approved.

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

The Secretary will now proceed with the reading of the Order of Business.

REFERENCE OF BUSINESS

RESOLUTION

The Secretary. Senate Concurrent Resolution No. 5, entitled:

CONCURRENT RESOLUTION FIXING THE PERIODS OF THE SESSION OF THE CONGRESS OF THE PHILIPPINES

Introduced by Senator Osmeña.

The President. Referred to the Committee on Rules.

BILL ON SECOND READING

Senate Bill No. 38 – Repealing Section Forty of the Civil Service Decree

Senator Mercado. Mr. President, I move that we consider Senate Bill No. 38 as reported out under Committee Report No. 4.

The President. Consideration of Senate Bill No. 38 is now in order. With the permission of the Body, the Secretary will read only the title of the bill, without prejudice to inserting in the Record the whole text thereof.

The Secretary. Senate Bill No. 38, entitled:

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

The following is the whole text of the proposed Senate Bill No. 38:

SENATE BILL NO. 38

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 Representatives of the Philippines in Congress assembled:

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Forty of Presidential Decree Numbered Eight Hundred Seven, otherwise known as the Civil Service Decree, is hereby repealed.

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

Senator Mercado. Mr. President, I request that we recognize Senator Neptali Gonzales to sponsor Senate Bill No. 38.

The President. Senator Gonzales is recognized.

SPONSORSHIP SPEECH OF SENATOR GONZALES

Senator Gonzales. Mr. President, distinguished Colleagues, I rise to sponsor Senate Bill No. 38. This bill seeks to repeal Section 40 of PD No. 807, otherwise known as the Civil Service Decree. This provision states 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, Mr. President, was originally embodied in Section 3 of PD No. 6 which was issued by the then President on September 27, 1972, only six 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 then, more so, when we consider the grant of broad and sweeping reorganization powers to the incumbent President under Section 9 of Article XVII (Transitory Provisions) of the 1973 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 can not 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. The 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 to 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 of the civil service shall be removed or suspended except for cause 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 removal or suspension that is summary. Hence, Section 36 of PD 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.

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

In retrospect, Mr. President, it may be recalled that substantially the same bill as Senate Bill No. 38 was filed by this Representation as Parliamentary Bill No. 302 on August 7, 1984 in the Batasang Pambansa. However, as a bill call-

ing 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 Service officers and employees from the oppressiveness and arbitrariness of Section 40 of PD 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.

And I can say now that I have always had the fortune of being an opposition candidate, who managed to convince Congress to support a bill that I have sponsored, only to be vetoed by the President.

I recall that as a Member of the House of Representatives of the Seventh Congress, I was able to secure the approval of a bill which I had authored, so rare and uncommon for bills filed by the opposition. But then, that bill was vetoed by President Marcos. And that was what actually happened again with respect to Parliamentary Bill No. 302, even in its diluted form.

It is submitted that with the restoration of democracy and the commitment of this Government to the strengthening of the Civil Service, outright repeal of this section is now imperative. Even now, this ought to be a welcome news to Civil Service officers and employees throughout the country who, in the face of the ongoing reorganization in several departments of the government, now feel unsure and uncertain.

There may indeed be a public outcry for cleansing the government service of corrupt and dishonest officers and employees. I submit, Mr. President, that this can be done with due regard to the interest of justice and fair play. To those who are impatient and demand swift action, let them ponder over these words of

counsel of Mr. Justice Felix Frankfurter when he said, and I quote:

... 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 can 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 principle of natural justice and is older than the written Constitutions. There can be no Constitution for "good guys" only and another Constitution for "bad guys." This is the kind of justice on which we, the Members of this august Body, have staked our lives and fates.

It is for the foregoing reasons that I ask humbly my distinguished Colleagues in this august Body to approve Senate Bill No. 38.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Mr. President, will the distinguished Gentleman from Mandaluyong yield to a few questions?

Senator Gonzales. Gladly, Mr. President.

Senator Guingona. We notice from the proposal, Mr. President, that the distinguished author is not against summary procedure. He is only against summary dismissals. Is this correct?

Senator Gonzales. Yes, certainly, there is a distinction between summary dismissal or summary removal from summary proceedings.

Senator Guingona. Yes.

Senator Gonzales. Because a proceeding may be summary. Even in the courts today we have the so-called summary proceedings.

Senator Guingona. As a matter of fact, the Gentleman proposed an amendment comprising Parliamentary Bill No. 302 which defines the

summary procedure, and contains, at least, the basic elements of notice and hearings.

Senator Gonzales. Mr. President, may I set the record straight?

Parliamentary Bill No. 302, in its original form, sought the repeal of Section 40 of Presidential Decree No. 807. It is now worded as Senate Bill No. 38. But then, I realized that in view of the political complexion in the Batasang Pambansa, it would be impossible to even hope that a bill of that nature would pass. And so I became more prudent on the matter that, at least, to relieve the Civil Service officers and employees of the oppressiveness and arbitrariness of Section 40, I reshaped Parliamentary Bill No. 302 in a way that would not seek the outright repeal of Section 40, but merely I amended it by defining the grounds which means when a charge is serious and the evidence of guilt is strong; when a respondent is a recidivist; and when a respondent is notoriously undesirable. And thereafter, I provided for the summary procedure.

Senator Guingona. Yes, Mr. President. We would like to ask the Gentleman if, in a situation, for example, where there is a civil servant who has participated in the *coup d'etat*, who has lent aid and comfort to the enemies desiring to overthrow the government, would not a summary procedure entailing notice and hearing be more proper under those circumstances, so that we do not deprive the State of its inherent right to defend itself?

Senator Gonzales. Mr. President, with respect to those who are in the military service, I think the Civil Service Law will not be applicable. He will be proceeded against in accordance with the provisions of, I think, the Articles of War which is applicable to the persons under military jurisdiction.

Senator Guingona. The Gentleman is correct but I am not referring to that, Mr. President. I

am referring to the civil servants in the civil administration who may lend aid and comfort or may directly participate in an attempt to help ensure the success of a *coup d'etat*. In such a case, would the Gentleman agree that it would be better for a summary procedure to be instituted so that the avenue can at least afford the State the right to defend itself?

Senator Gonzales. Mr. President, I do not believe that we should have one set of rules for one class of Civil Service officers and employees and another set of rules for another class or another group of the same Civil Service officers and employees. I think that the provisions on discipline contained in Sections 36 and 37, Disciplinary Jurisdiction, and Sections 38 and 39 of the Civil Service Decree would be adequate. Our law is not entirely toothless. Sometimes, the delay here is caused not by the law, but by those who implement or who conduct the investigation. And I feel that there should be a set of laws applicable to all who are similarly situated. It would be class legislation if we treat other officers and employees differently from others.

Senator Guingona. No, it would not apply to one set of Civil Service employees. I am contemplating, Mr. President, perhaps, the definition or redefinition of Section 8, for example, or Section 40, subsection (a) when the charge is serious and the evidence of guilt is strong and this could, perhaps, warrant a summary proceeding rather than the regular procedure where the accused or respondent has been afforded all the rights, the terms of answering, and producing evidence, etc. They are applicable in extreme cases, Mr. President, because of the times and because of the desire of the Senate to consolidate, so that we can move forward and do away with all of these unrest and destabilization.

In the meantime, would not the distinguished Senator agree to summary procedure in certain cases only?

Senator Gonzales. The trouble there, Mr. President, is that when emergencies or situations occur, as what happened on August 28, we always tend to react by providing a special law. And yet, years from now, when everything would have become normal, then we sometimes become ashamed of the very rashness of our actions taken during those times, that it seems as though justice comes to us in different shades and degrees.

I am against that principle. Because due process, as the Gentleman, a very distinguished Professor of Political Law and Constitutional Law, knows, has both a substantive and a procedural aspect. Now, the summary procedure that the Gentleman has mentioned, that is, the procedural aspect of due process, for as long as it satisfies that minimum requirements of notice and hearing, will be perfectly all right, but substantive due process comes to the grounds, and considers the grounds. When the charge is serious and the evidence of guilt is strong, it is merely a charge. In this particular case, the charge becomes proof of the accusation. What kind of justice is there when a person can be dismissed just because the charge against him is serious and the evidence of guilt is strong, but has not committed a crime or is guilty of the charge?

Second, when he is a recidivist, and what is the definition of a recidivist? Not because he has been repeatedly convicted, but because he had been repeatedly charged.

Third, he is notoriously undesirable. What is undesirable? What is being notoriously undesirable? And this goes to the very substantive aspect of due process, Mr. President.

Senator Guingona. Mr. President, certainly, this humble Representation believes that it would help the Body if we could see the specifications that the Gentleman himself authored, defining or specifying what constitutes a serious charge, what constitutes a strong evidence.

Senator Gonzales. Mr. President, in trying to seek the least evil, I would not want to do it again under conditions where we are today. I will be very, very ashamed to sponsor a bill of that nature, considering that we are now committed to a full democracy with a full recognition and guarantee of the Bill of Rights, and also committed to the strengthening of the Civil Service.

Senator Guingona. Does not the Gentleman agree that summary process is part of due process and, as a matter of fact, still adhering to due process?

Senator Gonzales. I think I have said so. If it becomes necessary to streamline the procedure as contemplated by the distinguished Gentleman, then let us do it uniformly. And then, that can be done in a separate bill by amending Section 38 which specifically provides for "procedure in administrative cases," so that something can be done with respect to that provision. But I do not think that anyone who is committed to the ideals of the present Government should maintain Section 40 of PD No. 807 in our Statute of Laws.

Senator Guingona. In that case, if the Gentleman will support or sponsor an amendment to the disciplinary measures so that we can have summary proceedings in certain instances, then we are perfectly satisfied.

Senator Gonzales. We can do that, Mr. President.

Senator Guingona. Thank you, Mr. President.

Senator Gonzales. Thank you.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. Will the distinguished Gentleman yield to two or three questions?

Senator Gonzales. It can even be four or

five; and considering the demonstrated ability of the distinguished Gentleman, I would expect many more questions.

Senator Maceda. I thank the Gentleman from Mandaluyong. My demonstrated ability, Mr. President, is really nothing compared to the ability demonstrated or undemonstrated by the Gentleman from Mandaluyong.

Senator Gonzales. I owe him one then, Mr. President.

Senator Maceda. Mr. President, we join the Gentleman from Mandaluyong in his very well-placed and very substantial concern for the effects of Section 40 on the summary dismissal of public officials and employees which is against the spirit and provisions of the new Constitution.

May I, therefore, ask, Mr. President, from the Gentleman whether he would be equally concerned with mass dismissals of a substantially large number of employees under any basis or justification?

Senator Gonzales. Mr. President, I am not prepared to make a categorical answer to that question until I am assured of the factual circumstances, because, as the Gentleman knows, there are indeed legitimate and valid reorganizations that may be undertaken by the government in accordance with reorganization statutes. And under a reorganization, offices can be abolished; offices can be merged; some offices can be divided. Now, if in the course of the reorganization certain officers are removed, in truth, that is not the removal that the Civil Service Law provides, unless the reorganization is a sham reorganization, that what is really intended is removal or dismissal under the guise of reorganization.

Even the new Constitution recognizes that. That is why the new Constitution specifically provides that officers and employees who may be separated from the service — I think the use

of the word “separated” would be better than “dismissal” — as a result of Executive Order No. 17, and the reorganizations thereafter, shall be entitled to the payment of all the retirement privileges and benefits under existing laws.

In short, that provision also recognizes that in the course of reorganization, there may be officers and employees who may be separated from the service. So, in that particular case, I think the thrust should be against the reorganization.

In short, is the reorganization, indeed, a valid reorganization? Or is it a sham reorganization that what is mainly desired is not really to secure harmony, efficiency, or simplicity in government but, really, the dismissal of officers and employees under the guise of reorganization?

Senator Maceda. I thank the Gentleman for such a very enlightening answer. Precisely, Mr. President, I asked the question this way because I was not asking about the legality; I was just asking whether the Gentleman would also be concerned if there are mass dismissals. Meaning to say, a large number of people are being dismissed under any reason or even under a reorganization. Or, to be exact, would the Gentleman be concerned if, under a reorganization executive order, a thousand people or more were dismissed from a specific department?

Senator Gonzales. Concerned? Definitely, Mr. President, especially during hard times like these when there is a high degree of unemployment and underemployment in our government, I think if we can put in the record — the concern also of the government, particularly of the President.

If the Gentleman will recall, under the Freedom Constitution, broad reorganization powers had been granted to the President.

Under Section 3 of Article II thereof, it provides that officers and employees of the existing government of the Republic of the Philippines shall continue in office until otherwise provided by law or until the appointment/designation and assumption of office of their successor. And because of that provision, there were mass dismissals and layoffs in the government. And there was a hue and cry from the public, from the government sector, and I think President Aquino responded.

We were still a Member of the Cabinet at that time, and I was directed by the President to prepare an executive order to soften the effect of that particular provision so that there will be no wholesale dismissal.

And if the Gentleman will recall, Mr. President, I prepared Executive Order No. 17, which I sponsored before the Cabinet, and under that executive order, grounds or causes for removal were provided and also, an appeal or a petition for reconsideration to a Review Committee. And let the records say that the Review Committee of which I was the Chairman ordered the reinstatement of thousands of those who were removed arbitrarily by different offices and agencies of government. And because of that action, I became unpopular to our Colleagues at that time.

Senator Maceda. Yes, Mr. President. I accept the record of the Gentleman from Mandaluyong in that regard in his capacity as the then Minister of Justice. I would only like to say that while I supported him then fully, we were still under the Freedom Constitution of the Revolutionary Government, whether we accept it or not. And at that time, it was necessary, as a matter of survival of the government, to do the same.

But I would like to prefix my further questions. Why the fact that the Gentleman from Mandaluyong accepts that with the adoption of

the new Constitution, we are back to a system where everybody is backed up by the aegis of Civil Service. And it is in that light that this bill has been presented and with that I agree, Mr. President.

So, the question is, whether it is under Section 40 of Presidential Decree No. 807, or under the so-called reorganization executive orders in which quite a few had been approved — especially during that midnight spree that the Executive Office engaged in — that whatever is the basis of the procedure, it is in the implementation where we start to have problems, depending on the sincerity of the government, and much more so, of the officer implementing it.

Senator Gonzales. I agree most sincerely with the Gentleman. We Filipinos appear to be very, very good lawmakers but we are very, very poor implementors.

In fact, no less than the President herself had advised these mass layoffs and dismissals. But in spite of that presidential advice, apparently, for one reason or another, the message was not received and implemented on the lower levels of government.

Senator Maceda. So the Gentleman would be, at least, concerned if it is recalled to him that about a thousand people had been laid off from the Department of Tourism.

Senator Gonzales. Yes, Mr. President. In fact, under Executive Order No. 17, we had been made aware of many dismissals at that time. And we ordered the reinstatement of a great number of those who were laid off or separated.

Now, with respect to the reorganization that came after February 2, 1987, my knowledge would primarily come from the newspapers.

Senator Maceda. Yes, Mr. President. So the Gentleman would also be equally concerned if it

is made known to him that several people have been or are about to be reorganized out of the Department of Local Governments.

Senator Gonzales. All right. It is very, very possible, Mr. President. However, allow me to give the side of the Department of Tourism.

Senator Maceda. No, Mr. President. I am just asking the Gentleman if he will at least be concerned.

Senator Gonzales. Yes, Mr. President. But at the same time, I think we should also put on the record what the reasons of their respective departments are. For example, in the Department of Tourism, it is very evident that the same is overstaffed. There are more than 2,000 employees where the job can be done by only 600 or 700 people. And that is why we said, we believe that under the circumstances, we can not pass judgment unless all the facts are in because an answer based upon a lack of knowledge may be wrong or may even be distorted.

Senator Maceda. Yes. That is why I am not asking the Gentleman, Mr. President, to pass judgment. I am just establishing that he is, at least, concerned and he has answered in the affirmative.

Senator Gonzales. For any Filipino who lost his job, whether in the private or in the public sector, I am concerned.

Senator Maceda. So will the Gentleman be equally concerned if this Representation communicates to him with reliable certainty that over 200 people have already been reorganized and if it continues, probably, over 2,000 people will be out of the Department of Environment and Natural Resources?

Senator Gonzales. If those be the facts, I would express my concern.

Senator Maceda. Yes. And would the Gentleman be equally concerned that in the ongoing reorganization of the Department of Transporta-

tion and Communications, the tendency is also in that direction, even to a point where one of the undersecretaries has been reorganized out simply because he is considered a politician and, therefore, is of no use to the present Secretary, who is not a politician?

Senator Gonzales. Well, there had been. In fact, in my interpellation during one of the many privilege speeches which this august Body had been privileged to hear, I recall that I did say that there are department heads who can not accept the fact that Congress is already in existence, and we have a very demeaning estimate of politicians, including Senators and Representatives.

Senators Maceda. And would the Gentleman from Mandaluyong even be more concerned if, after the so-called reorganization, an equal number of or, at least, a big number of substitutes, new appointees and proteges are appointed to the same positions for purposes of efficiency and economy?

Senator Gonzales. That is why I have said here, Mr. President, that I premised all my answers on a valid or a legal reorganization. And under the circumstances the Gentleman is injecting, there are circumstances now which, together with others, may prove that the reorganization is not really in good faith. But that it is merely done for the purpose of removing incumbents so that new appointees, probably less qualified, may be appointed, in which case then, a case can be made against the validity of the reorganization itself.

Senator Maceda. And would the Gentleman, therefore, not only be most concerned but probably even be shocked to learn if the people who are being reorganized out and replaced with new people are people who helped in the Snap Election, people who helped in the revolution, people who supported President Cory Aquino, and that they were replaced by some people

who, in the words of the Gentleman from Cebu, were even loyalists, and did not work for us during the election and the revolution, Mr. President?

Senator Gonzales. That is one of the deplorable things that is happening and which I have personal knowledge of, Mr. President — that many of those whom the Gentleman himself had appointed in the department were separated from the service after they had been appointed, and that has happened to practically everyone here who had held office before. That is true with respect to Senator Tañada; that is true with respect to my case, probably, that is equally true with respect to Secretary Alvarez. I think this is one of the sad things happening in this government.

Senator Maceda. May I clarify, Mr. President, the latest statement.

Does the Gentleman from Mandaluyong make it on record that some of his appointees in the Department of Justice, who helped in the restoration of democracy, have also been removed and replaced by new officials?

Senator Gonzales. Well, of course, in fairness to those holding coterminous positions, I feel that is the inherent right and prerogative of my successor. But when it goes down even to the ordinary employees as the drivers, I think that is too much to swallow.

Senator Maceda. I am shocked to hear that that has happened because, at least, in the Department of Natural Resources I did not recommend my successor. But, Mr. President, it was my impression that in the Department of Justice, and I may be wrong, the successor of the Gentleman from Mandaluyong was recommended by the Gentleman from Mandaluyong himself.

Senator Gonzales. The Gentleman overestimated me. I am not that strong and influential with the President.

Senator Maceda. And so, Mr. President, may I ask from the Gentleman from Mandaluyong that if a member of the Executive Department removes from the Department of Justice — with the implication from the Gentleman from Pasig — some of the previous appointees of the Gentleman from Mandaluyong, is that in the category of what the Gentleman from Pasig calls “confrontational attitude”?

Senator Gonzales. Since the Gentleman from Pasig is here, I will be willing to yield the floor so that he can answer it, and we can hear directly from the horse’s mouth.

Senator Saguisag. Mr. President, if I may, all I want to say here is that our fellow workers in government are not to be presumed as vicious, irresponsible and sadistic. They are entitled to due process.

Senator Maceda. Mr. President, I have been here for five weeks. I would just like to clarify for the record that in all my privilege speeches, I have never used the words “vicious,” “irresponsible,” much less “sadistic.” If that is the characterization of the Gentleman from Pasig, then he is certainly entitled to do so.

Senator Saguisag. Because all these weeks, Mr. President, every time someone acts in the Energy Regulatory Board, someone acts in the National Power Corporation, or anybody else acts elsewhere here, they are being criticized.

I doubt if anyone has really bothered to hear their side first. And I think that is the intent of this bill; whether it is a lowly clerk, whether it is a department secretary, I like to think that he must be presumed to have acted in good faith, in the same manner, we, in the Senate, should be given the benefit of the doubt as to what we do here. If we do things that are not easily understood by others, I trust they will presume that we are equally motivated by the same things that motivated the distinguished Gentleman from Manila. So; I am not going to

pass judgment at this point so easily without finding out why an executive secretary or a department secretary did this or said this. I would want to hear him out first.

So, I am for due process; that is the very same reason why I am the prime defender of Senator Maceda. He has been the victim of so many unfair accusations, and I think there is no better defender than I when it comes to anyone being unfairly assailed and condemned without being heard out.

And I am very disturbed that, again, there are some loose assumptions here that somebody did not do things properly. Maybe he did not, but I would rather hear him out first.

So, that is the only thing I am going to say. I am for giving everybody the benefit of the doubt, whether it is our distinguished Friend from Cagayan or our distinguished Friend from Ilocos Sur or whoever, I am not going to deny any member of the Executive Department the same liberality that I am extending to every Member of this Senate.

Senator Gonzales. Shall we limit our debate to the merits or lack of merits of Senate Bill No. 38?

Senator Maceda. Yes, Mr. President. I was just going to say that it is the right of the Gentleman from Pasig to feel disturbed. But I would like to assure him that this Representation is not, in any way, disturbed. *[Laughter]*

Mr. President, the point, therefore, whether it is under Section 40 of PD 807 or under what is admittedly a legitimate, legal, executive reorganization order, the result could be just as we should be concerned about, if not shocked about, if not angry about, that the result is in the mass dismissals of people especially if, after the process of mass dismissal, a substantial number or an equal number is hired in their place.

Senator Gonzales. Mr. President, reading the

Civil Service Decree in its totality, the mass dismissal of the nature that the Gentleman has revealed or spoken about is never contemplated. The Civil Service Decree contemplates a case-to-case basis, although there may be instances wherein a number of officers and employees have been dismissed at the same time.

Senator Maceda. Mr. President, one of the fallback safeguards is a standard provision in this reorganization measure, besides the directive to pay out retirement benefits which covers a very small portion because, normally, the bigger portion of those dismissed or laid off or reorganized out are still not qualified for substantial retirement benefits, except those that are nominal under Republic Act No. 1616. So, a standard provision is usually added that all of those who are reorganized out shall have priority in the hiring by other government offices. Is that not a standard provision?

Senator Gonzales. Yes, Mr. President. And in some other reorganization laws, even some gratuity or the payment of some separation pay is authorized, especially for those who, under existing laws, are not yet entitled to retirement benefits.

Senator Maceda. But, at least, Mr. President, that provision of giving them priority in the hiring by other government offices should be given some compliance, rather than what is normally the case. It is really not complied with in practice.

Senator Gonzales. Yes, Mr. President, because technically, when one is separated from the government by virtue of the reorganization laws, there is no finding of guilt; there is no finding of misconduct in office. That is why there is that provision giving them priority to employment or to reemployment, if not in that office, in other offices of the government. So, I feel that that provision should really be complied with, otherwise, panloloko lamang iyan. It will

be nothing but a trap for them to make the separation palatable because of reorganization.

Senator Maceda. The problem I would like to ask of the Gentleman seems to be that when we say "priority", there is really no specification of what that means or how that should be implemented. For example, let us not go very far away from here. Does the Gentleman from Mandaluyong know whether, in the hiring of the personnel of the Senate Secretariat, that particular provision has been given any consideration at all?

Senator Gonzales. I am not in the leadership of the Senate and I am not really privy to the administrative operation and management of our Secretariat; so I beg off from answering that question.

Senator Maceda. But would the Gentleman agree that we should, at least, set an example, and that is, if there are further vacancies, we should hire a certain number of people out of these people who are being laid off by the other departments, such as, as he said, drivers or clerks, who have no administrative records to start with?

Senator Gonzales. I would assume that these things will be considered by those in charge of the personnel of the Secretariat. If the qualifications are the same, I suppose, priority should be given to them.

Senator Maceda. Mr. President, I would like to thank the distinguished Sponsor that, at least, I have been reassured that he has put on record his concern that under these reorganization acts that are now being implemented in the different departments, thousands of people are being laid off, and if there is a way for us to take care of them through legislation or through our persuasive influence on the Executive Department, I hope that the Gentleman from Mandaluyong and the Gentleman from Pasig will take the lead in trying to give some assistance to these people

who are being laid off.

Thank you, Mr. President.

Senator Gonzales. The message is well said and received, Mr. President.

Senator Saguisag. Mr. President.

The President. Senator Saguisag is recognized.

Senator Saguisag. Will our distinguished Colleague from Mandaluyong yield to just one question?

Senator Gonzales. Karangalan ko po iyon.

Senator Saguisag. Ito pong Section 2 which says, "This Act shall take effect upon its approval." Its plain meaning tells us that the intent is to make this law prospective. So, I just want to be very clear on this point. This law can not be invoked by anybody removed from February 26, 1986 up to the time that this shall have been approved by the President.

Senator Gonzales. As correctly pointed out, this is prospective in its operation.

Senator Saguisag. That is all. Thank you, Mr. President.

The President. Is there any other interpellation?

Senator Osmeña. Mr. President.

The President. Senator Osmeña is recognized.

Senator Osmeña. Will Senator Gonzales yield to a few questions?

Senator Gonzales. Gladly, Mr. President.

Can I change the position of the microphone so that I would not have to turn my back every-time I want to see the Gentleman's handsome face?

Senator Osmeña. The records will show, Mr. President, that I have recorded a dissent, not so much for the reason that I am against the principle of due process on hearing, but for reasons that I will expound upon when the time

comes to take what is known as the *turno en contra*. But before that, I would like to address a few questions on the matter at hand, if Senator Gonzales will answer.

Mr. President, in the 15 years that this law has been in effect, how many government officials have been separated from the service by virtue of this provision?

Senator Gonzales. I do not have the exact number. I know that there has been a substantial number, and especially during the Martial Law regime, this is a matter that has been very well known. But to me, what is important is the very essence of the provision, not the number of those who have been separated by virtue hereof.

Senator Osmeña. Because I would, perhaps, give the information most likely to support the thesis that this provision was not really used during the Martial Law years and that, on the contrary, a number of people have been appointed to the Civil Service who, I would say, would not be deserving or have proven to be undeserving or undesirable.

Senator Gonzales. I have no quarrel with the Gentleman that with or without Section 40, the appointments of misfits in the government are made and are still being made. But that would be beside the point. This will be extraneous to the matter at hand which is the bill that seeks to repeal Section 40 for the reasons that we have given.

Senator Osmeña. At the proper time, I would like to argue the thesis that the parity of the Civil Service is extraneous to the summary or abbreviated process of removal. In any case, would the Senator not feel that the enactment of this bill at this time when no less than Cardinal Sin himself speaks of the recurrence of graft and corruption would be giving the wrong signal to people in the Government who should be removed from the service?

Senator Gonzales. I think that the integrity

of a system, whether this system or any other system of government that we have to establish, lies in the very integrity of the structures that we are putting forth. That is why I am saying that I am against a government by reaction. Now, everytime something happens, then we just react. We must set permanent structures that satisfy the test of reasonableness and justice so that when history is recorded, at least, we know that we have not acted with vengeance in reaction to what has happened during an episode in a nation's life. Otherwise, studying the history of so many countries, we have so many purges; we have so many killings; we have the gallows, all in reaction to conditions obtaining at that time, and yet when tested in the light of history, they become shameful periods in the history of a nation.

Senator Osmeña. The Gentleman will perhaps note that the dissent that I registered on this bill preceded the revolt of Friday and it also preceded the speech of Cardinal Sin at which he raised the point of his accusation, which I will not comment on directly, on the seeming increase of graft and corruption. So I hope the Gentleman does not refer to me as reacting in my dissent to the events of last Friday.

Senator Gonzales. Mr. President, I did answer that because the Gentleman said that that is in the light of recent events. We are aware of what Cardinal Sin had said, but then we should always act with justice. Ano ba ang ipinaglaban natin dito sa rebolusyon na ito? Ang sabi natin, freedom and justice. And justice does not come by degrees; justice does not apply to only certain periods. Now, there are laws regarding corruption. I think we have one of the best laws in the world. The Anti-Graft and Corrupt Practices Act is probably one of the best laws against graft and corruption in the entire world and it is to the credit of Congress to have enacted this law. Ngunit and problema lamang when it comes to the implementation, to the

prosecution, it boils down to that. Ang diperensiya ay hindi ang batas, kung hindi ang pagpapatupad ng batas.

Senator Osmeña. So, in effect, what the Gentleman is arguing about is that that provision of law, which would make the implementation of what he calls as one of the best laws that we have, even more expeditious, should be removed so that the implementation of that law could even be more difficult and inexpeditious.

Senator Gonzales. Yes, Mr. President, provided, however, that certain minimum guarantees to protect the rights of the individual, whether he be the basest criminal that has walked in this country, are provided for.

Senator Osmeña. That is a good point, Mr. President, because if we go back to the Gentleman's position in Parliamentary Bill No. 302, that bill — and I will have to ask a copy — I understand would, in effect, satisfy his point because he voted for it and he accepted it as an amendment by substitution.

Senator Gonzales. I thought I have explained the matter. My original position calls for an outright repeal.

Senator Osmeña. That is correct.

Senator Gonzales. But then, one has to accept the realities existing at that time, meaning, probably a law that provides for summary proceedings instead of summary dismissal would be better. As I have said, I did so out of expediency in order to relieve some arbitrariness, some oppressiveness of this particular provision. But today I would never sponsor that kind of bill because I feel that for as long as Section 40 of PD 807 remains, then all constitutional provisions on security of tenure with respect to those belonging to the Civil Service will be empty and illusory.

Senator Osmeña. Am I to understand, therefore, that justice at one time can be modified or

the standards of justice can be modified from time to time because that is the implication of the Gentleman's statement, that at that time he was willing to yield to a bill or even sponsor or vote for a bill which would not satisfy his standards of justice, but today his standards of justice have changed?

Senator Gonzales. No, my standards of justice have not changed; but what I am telling the Gentleman is that in legislation, one sometimes thinks of the attainable.

Senator Osmeña. But that is the very basic principle, I think, in politics, legislation or government. It is basically an art of compromise on what is attainable. And I conform with the Gentleman in that.

I will be the last one to subscribe to rampant injustices and I will support the Gentleman's theory of due process. I would think also that there are other considerations and there is the danger of being misunderstood in the enactment of this legislation.

And, therefore, at the proper time, Mr. President, I would present an amendment.

Senator Gonzales. I would wait for that with eager anticipation, Mr. President.

Senator Osmeña. Thank you, Mr. President.

The President. Is there any other interpellation?

Senator Pimentel. Mr. President.

The President. Senator Pimentel is recognized.

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

Senator Gonzales. Yes, Mr. President.

Senator Pimentel. Mr. President, having been a former mayor of a city in the same manner that Senator Joseph Estrada was Mayor of San Juan and Senator John Osmeña

was Mayor of Cebu, I would like to advert to a practical problem that deters the efficient administration of cities and municipalities as a result of the protection of civil service legislation.

Mr. President, we sometimes come across civil servants who are really just taking advantage of the Civil Service protection as a way of ensuring that they will stay on in the Civil Service without delivering the service that is expected of them. And, therefore, Mr. President, we would like to find out from the Gentleman how he would balance the need to deliver that service, at the same time afford protection to the civil servants which is my concern in the same manner that it is his.

Senator Gonzales. I think, Mr. President, my answer lies in the same concern expressed here earlier by Senator Guingona, which is, that if we feel that the procedure, as provided for in Section 39, is too much of a straightjacket, that it causes unnecessary delay and, therefore, it ties the hands of many of the administrators in government, we can change that procedure and provide for something that is more simple and even a summary procedure for dismissal in which the minimum guarantees of notice and hearing are herein provided.

Senator Pimentel. Yes. I raised that point, Mr. President, because of our, as I said, experience in overseeing directly some civil servants, especially in the lower ranks who, nevertheless, are covered by Civil Service laws. Like the case of the garbage collectors in my experience, I have come across a number of them who would report one day, be absent the next day, report again the following day or report late periodically and yet, we can not summarily remove them because there is such a Civil Service protection covering them.

Senator Gonzales. Yes, Mr. President, we are aware of that. But then, when the Consti-

tution, both the 1935 and the 1987 Constitutions, had provided for security of tenure of those belonging to the Civil Service, they may have been aware of this particular problem, but a choice was deliberately made in favor of security of tenure because, in the long run, it is felt that a strong Civil Service is essential to good government. Perhaps, I feel that we ought not to be helpless, and I think I have shown the way and probably, we can sit down and think of some other ways by which a simpler and a more expeditious procedure in the investigation and the imposition of discipline may be made. My concern at this particular point is merely Section 40 of the Civil Service Decree.

Senator Pimentel. Yes. The Gentleman knows that among the reasons why I tried to point this out is that I also wish to underscore the fact that his proposed bill to repeal Section 40 does not mean that all the other sections of this Decree are, therefore, workable or are worthy of preservation.

Senator Gonzales. Yes, Mr. President. In fact, as I indicated earlier, I am for the adoption of a simpler and more expeditious procedure in the investigation of Civil Service cases. Because I know as a fact that this has been used as a shield by those who deserve to be booted out of the government service.

Senator Pimentel. Just to let the records speak very clearly insofar as my position is concerned, Mr. President, when trying to remove the mantle of civil service protection over deserving civil service employees. But we also know for a fact that there are a number — maybe a lesser number compared to those who are really doing the jobs — of civil servants who are merely taking advantage of the protective security of their Civil Service tenure and who do not deliver the service that is expected of them. And, therefore, Mr. President, I would wish to

find out if it is proper in the discussion of this bill to propose amendments which may entail, in fact, an overhaul of the entire Civil Service Decree.

Senator Gonzales. I think that is a very, very laudable objective, but at the same time the trouble is that sometimes when we make our objectives overly broad it causes the delay or sometimes the demise of a bill. And I would not want Senate Bill No. 38 to suffer that fate.

Probably, we can, I think; and this is a promise that I have left out. We have here the very industrious and competent Chairman of the Committee on Civil Service and Government Reorganization and she has been all ears during our own deliberations and I feel she is aware of that particular subject. And as a member of the committee, I know the committee is undertaking a review of the entire Civil Service Law and probably, the opportunity is there.

Senator Pimentel. Mr. President, may I command the Gentleman for his sincere effort to cleanse the Civil Service Law of provisions that are really oppressive insofar as the civil servants are concerned, and also for the elegance of the language that he has used, as well as for his own sartorial elegance. *[Laughter]*

Senator Gonzales. Thank you. I have promised him that. *[Laughter]*

The President. Is there any other interpellation? *[Silence]*

Now we go to the period of speeches for and against the bill, if there are any. Is there anyone who would like to speak against the bill?

Senator Osmeña. Mr. President.

The President. Senator Osmeña is recognized.

Senator Osmeña. Mr. President, I have made a reservation to speak against, but

when I asked the Majority Floor Leader yesterday what bill we would be considering here this morning, I was made to understand that it was going to be Senate Bill No. 92 on the postponement of the local elections. So I am sorry to say, Mr. President, I am not prepared.

Can we defer consideration on this until Thursday, Mr. President?

Senator Mercado. Mr. President.

The President. The Majority Floor Leader is recognized.

Senator Mercado. I would like, Mr. President, to make an explanation as well. The reason why we are not considering Senate Bill No. 92 is that the bill is rather thick and the copies are still being made.

I would like to move that we consider that on Monday.

The President. We will defer consideration of this bill for Monday.

Senator Osmeña. Mr. President.

The President. Senator Osmeña is recognized.

Senator Osmeña. Mr. President, it so happens that because of the celebration in Cebu which culminates on the 9th of September and which is the birth anniversary of the late President Sergio Osmeña, I will not be in the Session Hall until Wednesday evening. So I would like to ask that it be deferred until Thursday, Mr. President.

SUSPENSION OF THE SESSION

The President. By virtue of this request, let us suspend the session for a few minutes.

It was 11:20 a.m.

RESUMPTION OF THE SESSION

At 11:23 a.m., the session was resumed.

The President. The session is resumed.

The Majority Floor Leader is recognized.

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SUSPENSION OF CONSIDERATION OF
SENATE BILL NO. 38

Senator Mercado. Mr. President, I move that we defer consideration of Senate Bill No. 38 for Thursday.

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

SPECIAL ORDERS

Senator Mercado. Mr. President, I move that we consider on Monday, Committee Report Nos. 5 and 6:

Senate Bill No. 4 (Committee Report No. 5), entitled:

AN ACT REQUIRING ALL SECONDARY SCHOOLS TO INTEGRATE IN THEIR CURRICULA THE TEACHING OF THE DANGERS OF DRUG ADDICTION AND ABUSE

Senate Bill No. 92 (Committee Report No. 6), 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

These are, Mr. President, for consideration on Monday. Copies of said bills are going to be provided the Members of the Senate today.

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 Monday at four o'clock in the afternoon.

The President. The session is adjourned until Monday, September 7, 1987, at four o'clock in the afternoon, if there is no objection. [There was none.]

It was 11:25 a.m.



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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*. (*Few Senators: Nay.*)

The *Ayes* have it. Senate Bill No. 92, as amended, is approved on Second Reading.

SUSPENSION OF THE SESSION

Senator Mercado. Mr. President, I move for the suspension of the session.

The President. The session is suspended, if there is no objection. (*There was none*)

It was 6:00 p.m.

RESUMPTION OF THE SESSION

At 6:06 p.m., the session was resumed.

The President. The session is resumed.

The Majority Floor Leader is recognized.

BILL ON SECOND READING

Senate Bill No. 38 – Civil Service Decree
(*Continuation*)

Senator Mercado. Mr. President, I move for the continuation of the consideration of Senate Bill No. 38.

I request that we recognize Senator Gonzales.

TURNO EN CONTRA

Senator Gonzales. Mr. President, I think, we are now in the period of *turno en contra*.

The President. If the Chair remembers correctly, Senator Osmeña manifested his desire to speak against the measure.

SPEECH *EN CONTRA* OF SENATOR OSMEÑA

Senator Osmeña. Mr. President, I manifested my desire to speak against the measure, and I will continue with that desire. But in the process

of studying and preparing for this, it has come to my attention that paragraph 3 of Section 2, Article IX-B on the Civil Service Commission provides: "No officer or employee of the Civil Service shall be removed or suspended except for cause provided by law." And that the interpretation of the words, "for cause" means that there must be a finding of cause, not necessarily an accusation of cause. And also, Section 3, Article XVIII of the Transitory Provisions provides: "all existing laws, decrees, executive orders, promulgations, letters of instructions and other executive issuances that are inconsistent with this Constitution shall remain operative until amended," which, of course, means that anything that is not consistent with the Constitution is not operative anymore. So, in effect, my position *en contra* now rests on different grounds. It rests on the ground that the proposal, with all due respect to the proponent, and the committee, is superfluous; that since it is contrary to the provisions of the Constitution, we do not even have to go through the process of repealing it.

Furthermore, I would like to put on record a concern shared by those of us who have held executive positions, especially in the local level, like the former Mayor of Cagayan de Oro, that the Civil Service Law, oftentimes, in the case of really undesirable employees, become shields to protect them from removal. And, therefore, I would like to suggest to the Committee on Civil Service in the Senate, that we may perhaps consider a summary proceeding with proper notice and hearing to deal with the specific problems.

I feel, Mr. President, that the employees of this government, the civil service employees who are doing a good job and by far, the overwhelming majority of our government employees would fall in this category need not fear from the effects of the process by which those who

are undesirable, may be removed without unnecessary delay.

With those words, Mr. President, I conclude my *turno en contra*.

Thank you, Mr. President.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

Senator Gonzales. May I make a statement to close the debate, Mr. President?

Presidential Decree 807, otherwise known as the *Civil Service Decree* was passed during the aegis of the 1973 Constitution, as amended, and the 1973 Constitution contains a similar provision which says that officers and employees belonging to the Civil Service shall not be removed or suspended except for cause as provided for by law. And it is precisely because we say that Section 40 is violative of the letter and the spirit of the Constitution on security of tenure, that a repeal thereof is made to settle, and rest once and for all this particular issue.

Now in so far as the claim is made that the procedure for the investigation and the procedure in disciplinary action cases by the Civil Service Commission is sometimes used as a shield by those erring officers and employees. I think, we should never have a short-cut to the Constitution, and I feel, in answer to the same point raised by Senator Guingona that the answer is not Section 40, but the answer is providing and simplifying the procedure. We can even adopt a procedure that is more or less summary for as long as the guarantees of due process are satisfied.

It is because of this we are working now together and incorporating in this bill a provision simplifying the procedure in Civil Service cases.

And so, with that, I close the debate, Mr. President.

The President. We shall enter the period of amendments next time.

Senator Mercado. Mr. President.

The President. The Majority Floor Leader.

SUSPENSION OF CONSIDERATION OF ~~SENATE BILL~~ NO. 38

Senator Mercado. Mr. President, I move that we suspend consideration of Senate Bill No. 38.

The President. Is there any objection? *(Silence)* There being none, the motion is approved.

SPECIAL ORDERS

Senator Mercado. Mr. President, I also move that we transfer from the Calendar for Ordinary Business, Senate Bill No. 17 to the Calendar for Special Orders.

The President. Is there any objection? *(Silence)* The Chair hears none; the same is approved.

ADJOURNMENT OF THE SESSION

Senator Mercado. Mr. President, there being no business for the day, I move that we adjourn the session until ten o'clock tomorrow morning.

The President. The session is adjourned until ten o'clock tomorrow morning, if there is no objection. *(There was none.)*

It was 6:15 p.m.



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The President. With 20 Senators present, there is a quorum.

Senator Mercado. Mr. President.

The President. The Majority Floor Leader is recognized.

THE JOURNAL

Senator Mercado. I move that we dispense with the reading of the *Journal* of the previous session and consider the same as approved.

The President. Is there any objection? (*Silence*) The Chair hears none; the *Journal* of the previous session is approved.

BILL ON SECOND READING

Senate Bill No. 38 — Repealing Section 40 of the Civil Service Decree (Continuation)

Senator Mercado. Mr. President, I move for the consideration of Senate Bill No. 38, embodied in Committee Report No. 4.

For the purpose, I move that we recognize Senator Gonzales. I believe we are in the period of amendments.

The President. Senator Gonzales is recognized.

Senator Gonzales. Mr. President, in the course of interpellations made by Senators Guingona and Osmeña and the other Members of this Body, I have pointed out that the remedy for feelings of frustration at the long and protracted procedure in disciplining the officers and employees of the Civil Service does not lie in changing or amending Senate Bill No. 38, insofar as it seeks the repeal of Section 40 of the Civil Service Decree. But the remedy lies in amending other provisions of the same, particularly Sections 36, 37, and 38 of the said Civil Service Law. And with that in mind, Senator Guingona and myself have strived to prepare the said amendments which we will incorporate in

Section 38. The amendments, however, are so extensive that, probably, copies of the same should be first distributed among the Members of this Body to give everyone an opportunity to look over these proposed amendments.

Therefore, may we request that we suspend the session for about five minutes to enable us to effect the distribution, and find out if we will be ready thereafter to proceed with the consideration of Senate Bill No. 38.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Mr. President, we have on hand the necessary copies for distribution. It was delayed because the typing was done only this morning. And so, in line with the suggestion, we will have these distributed now, and then, perhaps, after a few minutes' suspension, we can proceed.

SUSPENSION OF THE SESSION

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

It was 10:13 a.m.

RESUMPTION OF THE SESSION

At 10:26 a.m., the session was resumed.

The President. The session is resumed.

Senator Gonzales. Mr. President, we want to put on record that copies of the bill, together with the amendments that I have earlier mentioned have already been distributed among the Members of this Chamber. By just looking at the amendments, they are far more extensive than the original coverage of Senate Bill No. 38. I, therefore, request that the Author of these amendments, Senator Guingona, be recognized in order to sponsor these amendments which are more extensive in character.

The President. Senator Guingona is recognized.

Senator Guingona. Yes, Mr. President. The proposed amendments include the repeal of Section 40 of the Civil Service Law which is the main bill under consideration. It seeks to complement the fact that we are deleting the summary procedure embodied in the Civil Service Law. It now balances that by updating and expediting, while at the same time, recognizing the basic substantial rights of respondents in the procedure of dispatching civil service complaints against civil service employees. It also adds additional grounds for complaints and it also amends the periods of appeal as previously provided in the Civil Service Law.

Since the amendments, Mr. President, are a little more extensive than originally intended, it has been suggested that the consideration of this measure be deferred until Monday to give more time to the Members to study the proposed amendments to everyone.

Senator Mercado. Mr. President.

The President. The Majority Floor Leader is recognized.

SUSPENSION OF CONSIDERATION OF ~~SENATE BILL~~ NO. 38

Senator Mercado. I move that we suspend consideration of Senate Bill No. 38 until Monday.

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

BILL ON SECOND READING

~~Senate Bill~~ No. 17 — System of Initiative and Referendum

Senator Mercado. Mr. President, I move that we consider Senate Bill No. 17 as reported out under Committee Report No. 7.

The President. Is there any objection? (*Silence*) The Chair hears none, the motion is approved.

Consideration of Senate Bill No. 17 is now in order. With the permission of the Body, the Secretary will read only the title of the bill, without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 17, entitled:

101
AN ACT PROVIDING FOR A SYSTEM OF INITIATIVE AND REFERENDUM, AND THE EXCEPTIONS THEREFROM, WHEREBY THE PEOPLE IN LOCAL GOVERNMENT UNITS CAN DIRECTLY PROPOSE AND ENACT RESOLUTIONS AND ORDINANCES OR APPROVE OR REJECT ANY ORDINANCE OR RESOLUTION PASSED BY THE LOCAL LEGISLATIVE BODY

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

SECTION 1. The power of the people to directly propose and enact resolutions and ordinances or approve or reject, in whole or in part, any ordinance or resolution passed by any local legislative body upon compliance with the requirements of this Act is hereby affirmed, recognized and guaranteed.

SEC. 2. (1) The power of initiative and referendum shall be exercised by the registered voters of provinces, cities, municipalities, and barangays or barrios.

(2) Initiative and referendum shall be validly initiated only upon petition therefor signed by at least ten *per centum* (10%) of the total number of registered voters of a local government unit; of which every legislative district, in case of provinces or cities with more than one legislative district, must be represented by at least three *per centum* (3%) of the registered voters thereof.

SEC. 3. (1) A group of registered voters, not less than five hundred (500) in case of



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Sponsor – Senator Gonzales

Interpellations by Senators Rasul, Tamano, Saguisag and Enrile

Rev (Consideration Suspended)

RESUMPTION OF THE SESSION

At 5:24 p.m. the session was resumed.

The President. The session is resumed.

BILL ON THIRD READING

~~Senate Bill~~ No. 92 — Resetting Local Elections to January 18, 1988

Senator Mercado. Mr. President, I believe we are ready to consider Senate Bill No. 92. Copies of said bill were distributed to all the Senators on September 11, 1987, last Friday. I, therefore, move that we vote on the said bill on Third Reading.

The President. This will be nominal voting on Third Reading. Is there any objection?

Senator Tañada. Parliamentary inquiry, Mr. President.

The President. Senator Tañada is recognized.

Senator Tañada. May we know if the bill that was distributed to all the Senators last September 11 is the printed bill in its final form as required by the Constitution? I think we have to be very careful with this because a question may be raised later on, and we have to make sure that Section 26 of Article VI of the Constitution has been complied with. I notice that the bill which was distributed still contains bracketed portions of the sections that had already been approved for deletion. And it also contains in capital letters those words and phrases that have been inserted by way of amendments.

Senator Mercado. Mr. President.

The President. The Majority Floor Leader is recognized.

Senator Mercado. I have been assured by the Secretary that the copies of the bill which had been distributed were in its final form. It may be possible that the copy in the hands of the Senator is a previous copy. At any rate, we can check it out with the Secretary.

SUSPENSION OF THE SESSION

The President. The session is suspended for a few minutes, if there is no objection. *(There is none)*

It was 5:27 p.m.

RESUMPTION OF THE SESSION

At 5:33 p.m., the session was resumed.

The President. The session is resumed.

SUSPENSION OF CONSIDERATION OF
~~SENATE BILL~~ NO. 92

Senator Mercado. Mr. President, there has been a request to have copies of Senate Bill No. 92 printed in its old form. The present form has run through a computer, and it is not in the same form as it was done previously, during the times when computers were not in vogue.

So, I move that we suspend our voting on Senate Bill No. 92 until copies shall have been printed in the usual orthodox form.

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

BILL ON SECOND READING

~~Senate Bill~~ No. 38 — Repealing Sec. 40 of the Civil Service Decree

Rtals *(Continuation)*

Senator Mercado. Mr. President, I move for the continuation of the consideration of Senate Bill No. 38.

We were in the period of amendments when we left off our consideration of this bill last Friday, and on the floor was Senator Teofisto Guingona, Jr.

The President. Senator Guingona is recognized.

Senator Guingona. Mr. President, distinguished Colleagues.

In India, Malaysia and Singapore, the civil servant, Mr. President, is a dedicated man of government. He is highly regarded, highly respected. In turn, he dedicates himself to the task of serving the public with pride, with honor, with honesty. This is not only due, Mr. President, to the compensation, to the commensurate privileges accorded him; it is also due to the recognition given him for his work.

The Filipino men and women who today man the civil service in government have the potentials to surpass the standards of yesterday, to surpass even the standards of other countries like India, Malaysia, and Singapore before the war. But to tap this potential more effectively, we should not only periodically increase compensation and privileges which this Government is already doing within its capacity; we should also make the entrance and promotion in tenure truly based on fitness and merit, even as we make the scalawags in office accountable for their misdeeds while in office.

In making them accountable, Mr. President, we should, however, accord them due process. That is why, Senator Gonzales originally proposed the deletion of Section 40 of the Civil Service Decree on summary procedure, because in many instances, this procedure is an anathema to the constitutional mandate of notice and hearing before penalty or disciplinary action is taken. At the same time, Mr. President, we do not desire to allow some scalawags to use the Civil Service as a shield to protect them from suspension or removal or other sanctions while in office, even while they are lazy and lackadaisical, even if they are disloyal and dishonest and a disgrace to the government service. They set a bad example, and sap the moral fiber of the entire organization. And if they get away with misdeeds, sometimes taunting even their own superiors because of the *palakasan* system, they breed demoralization down the line.

This is the lament of the distinguished Senators Pimentel, Osmeña, and Estrada who have had direct experience as previous mayors. And it is grievous wrong which we must rectify.

We have, therefore, proposed the amendments not only to delete Section 40 of the Civil Service Decree, but also to amend the entire Article IX of such decree by substitution. We have distributed copies of the old decree, Article IX from Sections 36 to 42, Mr. President, and we have distributed copies of the proposed amendment by substitution for every section thereof.

In Section 36, Mr. President, we seek to amend by substitution by deleting the ground of "notoriously undesirable." There are, I think, 29 grounds provided in the Civil Service Law which may constitute a basis for a charge and an investigation and a corresponding punishment, if found guilty; and among them are dishonesty, oppression, neglect of duty, misconduct and others, and in the old law, "notoriously undesirable." But since "notoriously undesirable", Mr. President, is subjective, there is no fixed definition of which is notorious or what is undesirable. Notorious may be famous to one and notorious to another; desirable to one and undesirable to another, it leaves a wide spectrum of discretionary power which is dangerous to prescribe.

We have suggested the deletion of "notoriously undesirable" in Section 36, and instead, we have proposed two additional grounds, Mr. President, namely: the ground of basic disloyalty on page 3 of the proposed amendment, line 21, which reads:

1574
ENGAGING DIRECTLY OR INDIRECTLY IN ACTIVITIES THAT AID, SUPPORT, AGITATE OR ESPOUSE THE OVERTHROW OF DULY CONSTITUTED AUTHORITY;

and on line 24,

1574 JOINING, SUPPORTING OR ENGAGING IN

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ACTS OF INSURRECTION, REBELLION, SEDITION, AND OTHER CRIMES AGAINST PUBLIC ORDER AS DEFINED IN TITLE THREE, BOOK TWO OF THE REVISED PENAL CODE AND CRIMES AGAINST NATIONAL SECURITY IN TITLE ONE, BODY TWO, CHAPTERS ONE, TWO AND THREE OF THE REVISED PENAL CODE.

These grounds are proposed, Mr. President, in view of the fact that the Constitution of 1987 mandates that all civil servants now take a public oath of office in support of the Constitution. And to give meaning to that oath to the Constitution, they must, at all times, be loyal and not give aid and comfort to rebellion or to the rebels and, therefore, this can rightfully and logically be a ground for disciplinary action under the Civil Service Law.

Section 37, Mr. President, is jurisdiction to discipline the civil servants. It is vested in the Civil Service Commission itself, in the Merit Systems Protection Board, in the heads of departments, agencies and instrumentalities, provinces, cities and municipalities. And we have proposed the procedure outline by increasing the allowable penalty for unappealable cases anywhere from one to 60 days and beyond which there should be no appeal.

Permit me to clarify, Mr. President. If a civil servant is charged with misconduct by a mayor of a certain municipality, and after summons and answer, the investigation is conducted and he is found guilty and assuming there is a 30-day suspension from office, that penalty is already final and unappealable. It is also final and unappealable if it is 50 days up to 60 days. It is only when the penalty imposed is more than 60 days that the respondent can appeal, first, to the Department Head; second, to the Merit Systems Protection Board; and finally, to the Civil Service Commission itself; and after that, he can only go to court through *certiorari*.

Section 38, Mr. President, updates the procedure in administrative cases against non-presidential appointees. It is made clearer as to the number of days to conclude investigation; the number of days within which to answer; the number of days within which a report on the investigation is made, and it allows also a waiver of formal investigation in light offenses.

Section 39, Mr. President, remains unamended, but a paragraph thereof is converted to a whole section to replace Section 40. In the past, it allowed reconsideration only once, and there were others, other than the respondent, who were allowed to appeal from the decision of the disciplining authority. The complainant or any affected party could appeal, but under this proposed amendment, the appeal is limited to the respondent.

In Section 40, as already stated, Mr. President, Senator Gonzales has sought the repeal of the entire summary proceedings and we concur wholeheartedly with the same.

Section 41, is reworded to fix the effectivity of preventive suspension. Before, Mr. President, the preventive suspension was discretionary. It was for 60 days. Sometimes, the 60-day preventive suspension was already over, and yet the investigation is still going on. And so, we have computed the time frame for the investigation to be finished within 90 days, because the respondent is allowed so many days to answer; so many days are allowed for reconsideration. So when the 90 days expire, the period of preventive suspension should also expire.

Section 42, Mr. President, clarifies the payment of back salaries upon exoneration of the respondent because this was not previously provided for.

All of these, Mr. President, seek to update and streamline the procedure on disciplinary action against non-presidential appointees,

not necessarily to downgrade but to make more wholesome the civil service of our Government; to restore the pride and the good name of the civil servants; and to restore the faith of the people in Government service. And so, it is a balanced proposition. We delete the summary proceedings and at the same time update the rest of the provisions so that the rest of the provisions are streamlined to make the proceedings more expeditious and to make the scalawags in office accountable to the people.

We, therefore, propose, Mr. President, that the amendments by substitution be approved as presented in substitution of the entire Article IX of the Civil Service Decree.

The President. Is there any interpellation?

Senator Rasul. Mr. President.

The President. Senator Rasul is recognized.

Senator Saguisag. Point of order, Mr. President.

The President. The Gentleman will please state the point of order.

Senator Saguisag. I want it to be preceded by a parliamentary inquiry.

Since the distinguished Gentleman from Luzon, Visayas and Mindanao, under Section 14 of our *Rules*, is an *ex officio* Member of the Committee in question, should it not have been that this kind of substitution pass through the Committee, because otherwise, we would kill the committee system?

The other thing is, it is very disturbing that an original proposal of the distinguished Gentleman from Mandaluyong comprising only of 19 words in Section 1 as regards its substantive part, and yet, it took us three days to debate on it — September 4, 10 and 11. And now it will be substituted by a ten-page bill. It may take us up to December if this will not have the benefit of prior committee work, where it will enjoy

the support, not only of one Sponsor, no matter how talented, but of the committee system.

So, I have a feeling that this may be out of order, Mr. President. If we substitute this, this bypasses the committee system submitted by someone who should have studied this. There might have been some procedural breakdown between the President Pro Tempore and the Members of the Committee, but from the standpoint of principle and from the standpoint of practical reality, I submit that this should not be the way. We should work on this. This should be recommitted to the Committee in question, to save time.

Senator Mercado. Mr. President.

The President. The Majority Floor Leader is recognized.

SUSPENSION OF THE SESSION

Senator Mercado. I move for the suspension of the session, Mr. President.

The President. The session is suspended, if there is no objection. *(There was none.)*

It was 5:52 p.m.

RESUMPTION OF THE SESSION

At 5:56 p.m., the session was resumed.

The President. The session is resumed.

Senator Saguisag. Mr. President, on the basis of the clarification given during the break, I am withdrawing my point of parliamentary inquiry.

The President. The point of parliamentary inquiry has been withdrawn and I am recognizing Senator Rasul, the Head of the Committee on Civil Service to interpellate the proponent of the amendment.

Senator Rasul. Mr. President.

The President. Senator Rasul is recognized.

Senator Rasul. Will the distinguished Senator from Iloilo and Mindanao care to answer a few questions?

Senator Guingona. Willingly to the Southern Rose of the Senate, Mr. President.

Senator Rasul. Thank you, Mr. President.

The amendments presented by the distinguished Senator provide grounds for disciplinary action in the civil service and at the same time provide procedures for administrative investigation.

To the 31 grounds for disciplinary action listed, his amendments add two more. The first, engaging directly or indirectly in activities that aid, support or espouse the overthrow of duly constituted authority; and the second, joining, supporting or engaging in acts of insurrection, rebellion, sedition and other crimes against public order.

The amendment classifies these two last offenses as grave offenses and provides that for such offenses, the Civil Service Commission shall have original and exclusive jurisdiction over all proceedings but allows it to deputize the appropriate department, agency or local unit to conduct the investigation, except the agency which filed the complaint.

Mr. President, my first question: Why are grave offenses listed together with administrative infractions, like insubordination, inefficiency, and drunkenness? Are not the crimes of rebellion, insurrection and sedition crimes against the State and not against a particular government agency?

Senator Guingona. Mr. President, disloyalty is not only a crime. It should be a ground for disciplinary action because the constitutional mandate requires civil servants to take an oath of allegiance to the Constitution. This disloyalty is directed to the National Government; it is not disloyalty to a corporation; it is not disloyalty to a municipality; it is not disloyalty

to a province or any agency or instrumentality. It only complements the constitutional mandate which requires the oath or affirmation of loyalty to the Constitution by civil servants.

Senator Rasul. Mr. President, the crime of disloyalty is a grave offense. Does not the Gentleman think that a grave offense, like sedition, rebellion, are crimes which should be dealt with by the police agency and the courts, and not the administrative agency and, certainly, not the Civil Service Commission?

Senator Guingona. Mr. President, malversation is also a crime and it is a matter for the police and for the courts. But malversation, if committed by a civil servant, certainly warrants, and is a good ground for, administrative charge and administrative investigation. Because under our laws, Mr. President, a government functionary, an official or employee may be charged criminally, administratively or civilly, and these three charges can go hand in hand.

We are now providing for these two additional grounds, and removing the ground of "notoriously undesirable," because we feel that this ground should not be made a ground for administrative investigation because that is very subjective. But, on the other hand, acts of disloyalty should be a valid ground for administrative investigation, charges and disciplinary action.

Senator Rasul. This humble Representation believes that the amendatory bill is laudable in terms of the due process provided for cases of disciplinary action, but it seems to be lacking in safeguards to civil rights in the two grave cases provided.

If the last two additions in the list of offenses are considered grave, why then is the court limited as far as judicial review is concerned? Are not grave offenses worth more

safeguards in due process to avoid unjust punishment to those who are mistakenly charged?

Senator Guingona. No, Mr. President, the Civil Service Commission has categorized offenses. Now, these are only administrative sanctions. They are not or without prejudice to the criminal and civil sanctions. Therefore, they can be implemented without violation of the Constitution, without violation of the civil rights of the respondents.

Senator Rasul. Is the Gentleman suggesting that if an offender has an administrative case filed against him, he can again be charged for the same offense under a court of law, in which case, there will be double jeopardy?

Senator Guingona. I am sorry, Mr. President. An administrative charge is not a basis for double jeopardy because double jeopardy will only subsist if there is another charge for the same offense or for the same set of facts in another court of competent jurisdiction. Administrative proceedings, not being judicial, can not give rise to double jeopardy. We have, for example, a man charged with bigamy in the courts. He is a clerk in the Department of Justice. He is charged criminally with bigamy and he is also charged administratively for the same bigamous conduct. That is not double jeopardy, Mr. President.

Senator Rasul. Thank you, Mr. President. One last question: I was just wondering if we are not overreacting to the recent *coup d'etat* when we consider the two additional offenses as administrative cases?

Senator Guingona. Section 4 of Article IX of the Constitution, Mr. President, states:

That all public officers and employees shall take an oath or affirmation to uphold and defend the Constitution.

If this is a mandate of the Constitution, it is logical then that the Civil Service Law provides that violation of this constitutional man-

date be a sufficient ground for disciplinary action, for we see no reason why a civil servant who is getting his remuneration, his compensation, his privileges, his benefits from the government should be disloyal to that government, and, therefore, it is, Mr. President, a logical consequence of this constitutional mandate. It is not an overreaction. It is an interaction.

Senator Rasul. Yes, Mr. President, I subscribe to his view and it is for that reason that this Representation believes that it should be the courts of law and not the civil service that should have jurisdiction over cases such as these.

Thank you, Mr. President.

Senator Guingona. Yes, Mr. President. The courts will also have jurisdiction because these are crimes defined under our Revised Penal Code; but, it certainly should not inhibit the administrative powers from imposing their own investigations and sanctions, Mr. President.

The President. Is there any other interpellation?

Senator Tamano. Mr. President.

The President. Senator Tamano is recognized.

Senator Tamano. Mr. President, will the distinguished Senator yield to a few questions?

Senator Guingona. Certainly, Mr. President.

Senator Tamano. First of all, Mr. President, I would like to commend the initiative of the authors of Senate Bill No. 38 in recognizing the need of officers and employees of the Civil Service for protection from improper disciplinary action. However, I would like to know what protection is given to an ordinary civil servant or a group of ordinary civil servants who are dismissed from office by a circuitous route through the process of abolition of their positions, ostensibly for the purpose of achieving efficiency or

for promoting some sort of economy in the service. If some recalcitrant employees, who can not be removed because of civil service tenure, are simply removed by the abolition of their positions, which later on are recreated after they have been booted out of office, is this not also reprehensible?

Senator Guingona. In that case, Mr. President, the remedy of the respondents or affected parties would be to go to court and to prove that the reorganization was done in bad faith. If they can show that the reorganization was done in bad faith, it is a constitutional violation of their rights and, therefore, they can file a case for mandamus to be restored to their previous offices or to have preference to be hired in another agency.

Senator Tamano. Would the Gentleman, therefore, at the appropriate time, accept an amendment that would extend protection to such employees who are booted out or removed from office through the expediency of abolition and also to punish those officials who are responsible for this circuitous violation of civil service tenure?

Senator Guingona. Certainly, Mr. President, and it should be pursuant to Section 16 of Article XVIII, Transitory Provisions of the Constitution, which provides the civil servants, who are affected or separated from office as a result of reorganizations, with certain rights or remunerations.

Senator Tamano. I am glad, therefore, that the distinguished Sponsor has an open mind on this matter because as we have said, the poor and lowly employees are sometimes removed from office through this expediency.

Thank you, Mr. President.

Senator Saguisag. Mr. President.

The President. Senator Saguisag is recognized.

Senator Saguisag. Will the distinguished Gentleman yield to a question or two?

Senator Guingona. Certainly, to the son who has been adopted by a thousand mother, Mr. President.

Senator Saguisag. May I call attention to page 3, line 20 of Senate Bill No. 38, which reads: "cc. Nepotism as defined in Section 49 of this decree," May we know what Section 49 is and what is the decree that was mentioned in this line I just read?

Senator Guingona. This is a carry over of the old law, Mr. President, and we are not amending this. It says:

All appointments in the national, provincial, city and municipal governments, or in any branch or instrumentality thereof, including government-owned or controlled corporations, made in favor of a relative of the appointing or recommending authority, or of the chief of the bureau or office, or of the persons exercising immediate supervision over him, are hereby prohibited.

As used in this section, the word "relative" and "members of the family" referred to are those related within the third degree, either by consanguinity or affinity.

And then, letter (b) says:

The following are exempted from the operation of the rules on nepotism: (1) persons employed in a confidential capacity, (2) teachers, (3) physicians, and (4) members of the Armed Forces of the Philippines: *Provided, however,* That in each particular instance full report of such appointment shall be made to the Commission.

Another paragraph:

The restriction mentioned in subsection (a) shall not be applicable to the case of a member of any family who, after his or her appointment to any position in an office or bureau, contracts marriage with someone in the same office or bureau, in which event the employment or retention therein of both husband and wife may be allowed.

(c) In order to give immediate effect to these pro-

visions, cases of previous appointments which are in contravention hereof shall be corrected by transfer, and pending such transfer, no promotion or salary increase shall be allowed in favor of the relative or relatives who were appointed in violation of these provisions.

Senator Saguisag. Does the Gentleman have any preference whether what he has just read should be lifted bodily and transferred here or whether this incorporation by reference will be maintained?

Senator Guingona. I believe that it should be maintained, Mr. President.

Senator Saguisag. Would it not be a little confusing, aside from adopting a practice of the past, and it will be harder for the one affected to obey a law where he will have to go to another law to understand what it means? This decree, in itself, may be incomprehensible to a layman.

Senator Guingona. No. This decree, Mr. President, is a carryover of the old law that was adopted in 1959, which was amended, later on in 1965, I believe, and which was adopted in PD 807.

Senator Saguisag. I would like to move on to page 5, the first two lines of Section 38, and I quote:

A) Disciplinary case is commenced through a formal charge only by those vested with authority as provided in Section 40.

May I ask what is this section 40?

Senator Guingona. The numbering here, Mr. President, must be read together with the existing law, and the existing law is Section 37. I believe he has a copy of that.

Senator Saguisag. The problem, Mr. President, is, while Section 40 may refer to this existing law, if one were to go on to page 7, there is another Section 40 here which is not related to section 38, and that is very confusing.

Senator Guingona. No, it is not confusing. It is only confusing if the person wants to be confused. But this is an amendment by substitution. That is why there are no indications and no brackets. It is an enumeration of intended amendments to the entire disciplinary action, Article IX of the existing law.

Senator Saguisag. I hope that it is correct that I am the only one confused by this provision. But this is a very serious measure, and it should be made as simple as possible for a lay person to understand. So when one is to say Section 40 is mentioned, but that is not the Section 40 here, but is found in another law, I was hoping that there is some way we could really simplify it for the benefit of people like this Representation who is simple-minded and can not possibly understand the rather isoteric presentation of this bill.

I am speaking in behalf of the many people outside who are laymen, who may not even be aware that there is a PD 807 and may, in fact, jump to page 7, simply because there is a Section 40 here. It seems to me that we are obligated to clarify and simplify statutes for the benefit, not only of lawyers, but also of laymen. And I would hope that, in the period of amendments, he would be open to proposals so that those sections appearing in different laws would not be confused with one another.

I have many other points. But if that is the attitude of the Sponsor, I would desist at this point. All I am saying is that, all these could have been avoided had there been committee work on this.

Thank you, Mr. President.

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized.

Senator Enrile. Mr. President, may I ask a few questions, if my distinguished Colleague would care to answer?

Senator Guingona. Willingly, Mr. President.

Senator Enrile. Subparagraph (h) of Section 36, from line 21 of page 1 to line 6 of page 2, reads:

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RECEIVING FOR PERSONAL USE OF A FEE, GIFT OR OTHER VALUABLE THING IN THE COURSE OF OFFICIAL DUTIES OR IN CONNECTION THEREWITH WHEN SUCH FEE, GIFT, OR OTHER VALUABLE THING IS GIVEN BY ANY PERSON IN THE HOPE OR EXPECTATION OF RECEIVING A FAVOR OR BETTER TREATMENT THAN THAT ACCORDED OTHER PERSONS, OR COMMITTING ACTS PUNISHABLE UNDER THE ANTI-GRAFT AND CORRUPT PRACTICES LAWS.

The question I would like to ask, Mr. President, is this; Suppose a civil servant receives a gift from a member of the public, let us say, on his birthday, or during Christmas time, believing that that was given in the spirit of the occasion, and later on, the giver, because she wanted to prejudice the receiver would now come forward and say, "I gave the gift in the hope or expectation of getting a better treatment, or receiving some benefit out of it." Would that not be considered unfair to the civil servant?

Senator Guingona. Yes, Mr. President.

Senator Enrile. Would the distinguished Gentleman then at the proper time accept an amendment to indicate that the receiver must knowingly receive such gift, fee or other valuable thing because of the fact that the giver expected her to do something in return?

Senator Guingona. Yes, Mr. President.

Senator Enrile. Thank you.

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Now on subparagraph (p), page 2, lines 19 to 20, reads: "REFUSAL TO PERFORM OFFICIAL DUTY OR RENDER OVERTIME SERVICE." Am I to understand, Mr. President, that mere refusal to perform official duty or to render overtime service will expose the civil

servant to a possible suspension, removal or disciplinary action?

Senator Guingona. This is considered a light offense, but it must be considered in accordance with circumstances.

Senator Enrile. The distinguished Gentleman, perhaps, intended that there should be an unjustified refusal to perform official duty or to render overtime service to cause the disciplinary action against the civil servant's concern?

Senator Guingona. We agree, Mr. President.

Senator Enrile. Now, on page 2, lines 21 to 22 of this proposed measure, read: "DISGRACEFUL, IMMORAL OR DISHONEST CONDUCT PRIOR TO ENTERING THE SERVICE." May I know if the distinguished Gentleman would consider, perhaps, a misconduct that happened, let us say, during the growing period of the individual, when he was only 13 or 15 years old, or in his teens, as a basis for disqualifying him afterwards, or disciplining him simply because it was discovered that he committed such a misconduct before, although he is now a very able, obedient, and efficient member of the Civil Service?

Senator Guingona. Mr. President, we fully agree. We intended to delete that but due to misprints it has been carried on.

Senator Enrile. May we know whether my distinguished Colleague would consider at a proper time a possible limitation, Mr. President, on this particular provision so that it will not be a cause of difficulties for some of our public servants if this becomes like a sword of Damocles that would be hanging over the heads of some of our brothers and sisters in the service?

Senator Guingona. Yes, Mr. President, we agree.

Senator Enrile. I go back to page 1, Mr. President, and I am referring to line 18, "DIS-

COURTESY IN THE COURSE OF OFFICIAL DUTY." May I know what is the concept of this "discourtesy" that my distinguished Colleague had in mind to be covered in this provision? Is it a discourtesy to a superior or a discourtesy to the members of the public dealing with the public servant concerned?

Senator Guingona. It is generalized. It depends on the circumstances, Mr. President.

Senator Enrile. Thank you, Mr. President.

The President. Is there any further interpellation?

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

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Senator Gonzales. I agree with the Gentleman that this bill now entitled "AN ACT AMENDING ARTICLE IX (DISCIPLINE) OF THE CIVIL SERVICE DECREE (PD 807)" is a substitute bill for the original Senate Bill No. 38. Is that correct, Mr. President?

Senator Guingona. Yes, Mr. President. It seeks to substitute the entire article, and in the process, includes the deletion of the original bill of the distinguished Gentleman, which was a deletion of Section 14.

Senator Gonzales. Although we submitted the original bill, subjected it to sponsorship and debated it, I think, for three days, I would not mind if the bill itself disappears in this amended bill. But what I am trying to say, Mr. President, is the form in which this substitute bill is presented. Because, essentially, this is still a bill that amends Article IX and, therefore, it retains a number of its provision and changes some, and there is no way by which the Members of this Body would be able to know, reading the bill itself, which portion has been retained and which portion is new. And in a Body like this, where we are engrossed so deeply in our respective work, it would be very, very difficult for us.

Therefore, what I am suggesting, Mr. President, is that it be presented in the recognized parliamentary form so that each Member will be guided in determining which provisions are retained and which provisions are completely new and intended as an amendment.

Senator Guingona. I agree with the distinguished Gentleman insofar as the amendment which do not substitute the entire article are concerned. But here, we have precisely presented the old article, and we have presented the intended amendment and, therefore, a reading of both will tell the reader which amendment is pertinent because it is an amendment by substitution, Mr. President.

SUSPENSION OF THE SESSION

The President. We shall suspend the session for a few minutes, if there is no objection. *(There was none.)*

It was 6:29 p.m.

RESUMPTION OF THE SESSION

AT 6:31 p.m., the session was resumed.

The President. The session is resumed.

SUSPENSION OF CONSIDERATION OF ~~SENATE BILL~~ NO. 38

Senator Mercado. Mr. President, I move that we suspend consideration of Senate Bill No. 38.

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. The session is adjourned until four o'clock tomorrow afternoon.

It was 6:32 p.m.



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SENATE

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107 COMMITTEE REPORTS

The Secretary. Committee Report Nos. 9 and 10, submitted by the Committee on Ethics and Privileges and the Committee on Public Services, respectively, both on Senate Bill No. 52, introduced by Senator Saguisag, entitled:

AN ACT TO EXTEND THE FRANKING PRIVILEGE OF THE MEMBERS OF CONGRESS BEYOND AUGUST 30, 1987,

recommending its approval without amendment.

Sponsor: Senator Saguisag.

The President. To the Calendar for Ordinary Business.

BILL ON SECOND READING

~~Senate Bill~~ No. 38 – Repealing Section 40 of the Civil Service Decree
(Continuation)

Senator Mercado. Mr. President, I move for the continuation of the consideration of Committee Report No. 4 on Senate Bill No. 38. Its parliamentary status for the moment is that we are in the Period of individual amendments.

For this purpose, I request that we recognize Senator Teofisto Guingona, Jr.

The President. Senator Guingona is recognized.

108 GUINGONA AMENDMENT

Senator Guingona. Mr. President, individual copies of the proposed measure were distributed yesterday, but I do not know whether the individual Senators have copies today; so, may we request that we verify?

Mr. President, this is the measure which originally sought to amend the bill of Senator Gonzales repealing Section 40, but in order to do that, the undersigned thought it better to balance the repeal of the summary procedure by updating the provisions in Sections 36, 37, 38, 39, 41, 42, and 43.

These entire Sections of Article IX, Mr. President, refer to the grounds for disciplinary action of civil servants in a move to strengthen the Civil Service to infuse encouragement and added incentives to the civil servants, and at the same time, to make sure that the Civil Service is not made a shield by a few scalawags in Government.

Therefore, Mr. President, on page 1, there are no changes; on page 2, the grounds for disciplinary action – light offense, less grave and grave offenses – are already spelled out in the Civil Service Decree. There are some changes on line 12, page 2, which read: “DELIBERATELY receiving for personal use of a free, gift or other valuable thing in the course of official duties or in connection therewith. . .”

Senator Tamano. Mr. President.

The President. Senator Tamano is recognized.

Senator Tamano. Mr. President, may I inquire if we are in the period of amendments?

The President. Yes, this is an amendment by substitution in itself, if I understand the parliamentary status correctly.

109 TAMANO AMENDMENT

Senator Tamano. Then, Mr. President, I would like to introduce an amendment on page 1, lines 11, 12 and 13. I propose, Mr. President, that these lines should read as follows:

“SEC. 36. *Discipline: General Provisions.*
– (a) No officer or employee in the Civil Service shall be suspended, DISMISSED OR OTHERWISE REMOVED, REPLACED OR SUBJECT-ED TO DISCIPLINARY ACTION except for cause as provided by law and after due process.”

The reason for this, Mr. President, is that removal can be effected in many ways, sometimes by the abolition of a position or in the guise of economy or multifarious reasons. This could be a form of discipline or removal or transfer. For example, it could be a form of disciplinary action. So, I would like that if we are

this bill is the addition of the following as grounds for disciplinary action under Section 36, and which is, "engaging directly or indirectly in activities that aid, support, agitate, or espouse the overthrow of duly constituted authority"; and second, "joining, supporting, or engaging in acts of insurrection, rebellion, sedition and other crimes against public order" and "crimes against national security," as defined in the Revised Penal Code.

At the outset, Mr. President, it is quite clear that political crimes are made as grounds for disciplinary action. This could be dangerous in the sense that it opens the Government to criticisms as being oppressive and unlike the past regime. This view evolves from the nature of national security and public order laws which are limitations on the constitutional rights of persons to expression and to peaceably assemble and petition the government for redress of grievances.

Precisely, Mr. President, laws on national security abridge the freedom of speech and/or expression and should not be taken lightly. This proposed bill then is particularly vulnerable to the charge of being violative of constitutional rights. It must be noted that the present grounds for disciplinary action are grounded on the civil servant's efficiency and competence and should have nothing to do with his political beliefs.

There is actually no need to include acts of insurrection, sedition and other crimes against public order and national security, as well as acts of disloyalty in general, as additional grounds for disciplinary action. There are existing grounds in PD 807, sufficiently broad to cover disloyalty to the State by civil servants.

Mr. President, when the bill was reported out, we agreed to the amendatory bill because there is nothing in the Senate *Rules* that was violated, because our Senate *Rules* allow for amendments and it is for the reason that we

did not object to the amendatory bill at that time, especially since the distinguished Senator from Iloilo feels that this could be done on the floor.

That is the information, Mr. President, that we would want to share.

Thank you.

Senator Enrile. Mr. President.

The Presiding Officer (Senator Laurel).
The Minority Floor Leader.

Senator Enrile. May I know the parliamentary status? The distinguished Lady Senator seems to suggest that she is asking for the recommitment of this bill to her Committee. That is my understanding. I would like to know whether this is the essence of her remarks.

The Presiding Officer (Senator Laurel).
The Lady Senator from Sulu took the floor to explain the status or the meaning of her point of clarification.

Senator Rasul. Mr. President, in the first place, when the Civil Service Committee reported out this bill, the Committee had no chance to take the floor. It was reported out and we had no chance to discuss it. But at that time, there was no amendment. The amendatory bill came afterwards and there seems to be no violation of the Senate *Rules*.

I think, if the distinguished Senator from Cagayan feels that it should be recommitted to the Committee on Civil Service, then, this Representation feels that there should be an amendment to the Senate *Rules* because there is nothing in the Senate *Rules* that does not allow the Senator from Iloilo to make the amendment. So, it is now a matter for this Body to decide, Mr. President.

Senator Enrile. Mr. President, I am not making a motion to recommit this measure to any other Committee of the Senate. And it is precisely because of my rather vague idea of the

Senator Guingona. Mr. President, Senator Tamano has an alteration in his proposed amendment.

The Presiding Officer (Senator Laurel). What is the position of the Proponent?

Senator Guingona. We will have it read, Mr. President, if he will please allow.

The Presiding Officer (Senator Laurel). Senator Tamano has the floor.

Senator Tamano. Mr. President, to take into consideration the objection of the distinguished Gentleman from Mandaluyong, we will remove the word "replacement," so that the phrase shall read, beginning on line 11: "shall be suspended, **DISMISSED OR OTHERWISE REMOVED OR SUBJECTED TO DISCIPLINARY ACTION.**"

If that is sufficient, then, we would be happy because, as he has pointed out, a transfer which is made in good faith may be justified. But if somebody, who is used to Manila life, is transferred to Tawi-Tawi, although that is the hometown of my distinguished Colleague, the Lady from Sulu, it may not be very salutary to his peace of mind.

The Presiding Officer (Senator Laurel). Is the Proponent of the amendment by substitution, the Senator from Iloilo, accepting the amendment of the Senator from Mindanao?

SUSPENSION OF THE SESSION

Senator Guingona. May I ask for a suspension of the session, Mr. President?

The Presiding Officer (Senator Laurel). The session is suspended for two minutes, if there is no objection. (*There was none.*)

It was 4:38 p.m.

RESUMPTION OF THE SESSION

At 4:45 p.m., the session was resumed.

The Presiding Officer (Senator Laurel). The session is resumed.

Senator Tamano. Mr. President.

The Presiding Officer (Senator Laurel.) Senator Tamano is recognized.

Senator Tamano. In order to enable this Chamber to move on to other provisions, and since my amendment has become controversial, I move that we go on to the other provisions of this bill, with the reservation that we can take up or reopen that matter the following day.

The Presiding Officer (Senator Laurel). Is there any objection to the motion of the Senator from Mindanao that we move on to the next page, without prejudice to going back to the point under consideration? (*Silence*). The Chair hears none; the motion is approved.

Senator Enrile. Mr. President.

The Presiding Officer (Senator Laurel). Yes, the Minority Floor Leader.

Senator Enrile. Mr. President, I though we were going to the other page. That is why I stood up.

The Presiding Officer (Senator Laurel). Yes, we proceed to the next page which is page 2.

Senator Rasul. Mr. President.

The Presiding Officer (Senator Laurel). The Senator from Sulu.

Senator Rasul. Point of information. Mr. President.

Senate Bill No. 38 was reported out by the Civil Service Committee of which I am the Chairman, and it was reported out without any amendments. All the objections, the amendments now, sprang from that amendatory bill. And I would like to give this information, Mr. President.

Senate Bill No. 38, as now amended, proposes to amend Sections 36, 37, 38, 39, 40, 41, 42, and 43 of Article IX of PD 807, the Civil Service Code. The most controversial feature of

Senator Guingona. No, but in view of the amendment of Senator Tamano, all penalties now will be included.

Senator Paterno. If that is the case, Mr. President, I would register an objection because, I think, it unduly limits the authority of the supervisor if he cannot even issue a reprimand until after he calls a hearing and subject this to due process.

SUSPENSION OF THE SESSION

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

It was 4:28 p.m.

RESUMPTION OF THE SESSION

At 4:31 p.m., the session was resumed with the Honorable Sotero H. Laurel, presiding.

The Presiding Officer (Senator Laurel). The session is resumed.

Senator Guingona. Mr. President, I believe Senator Tamano would like to make a manifestation.

The Presiding Officer (Senator Laurel). Senator Tamano is recognized.

Senator Tamano. Mr. President, in order to effect a compromise — because all life is a compromise — I am amenable to the removal of “reprimand” as within the purview of my amendment.

The Presiding Officer (Senator Laurel). So, how will Section 36 read?

Senator Guingona. Mr. President, the distinguished Gentleman is asking me to phrase it, if I may. The amendment will read on line 11: “No officer or employee in the Civil Service shall be suspended or REPLACED except for cause as provided by law and after due process.”

The Presiding Officer (Senator Laurel). Is there any objection on the amendment, as rephrased?

Senator Gonzales. Mr. President.

The Presiding Officer (Senator Laurel). Senator Gonzales is recognized.

Senator Gonzales. Mr. President, the phrase “OR REPLACED” is something really that is in the Civil Service Law, and we are not at this time, ready to be able to determine offhand what would be the consequences of the addition of that phrase, because Section 36 has only been bodily lifted from the provisions of the Constitution with the addition of the phrase “and after due process.” That provision “suspension and dismissal” has already a settled meaning in the Civil Service Law and in the jurisprudence on this because there is a separate provision regarding the transfers of officers and employees belonging to the Civil Service. For example, it is specifically provided that transfers from one position to another shall not be considered disciplinary if it is done in the interest of the service and in good faith. Now, if a transfer from one position to another results in a bold replacement and, therefore, it is done in good faith and in the interest of the service, it need not be preceded with “cause” and due process.

Now, on the other hand, if, let us say, one is appointed to a specific or definite station and he holds a permanent appointment thereto, and he is transferred to another item without his consent, in that case, the Supreme Court has repeatedly said that it is, in effect, a removal. That is disciplinary. And, therefore, if it is disciplinary, it must be preceded with cause and due process. That is my objection. That is something that might bring so many ramifications which at the moment we cannot foresee. And that is why, I would ask the Sponsor of these provisions to consider that before he accepts any amendment as the one suggested by Senator Tamano.

The Presiding Officer (Senator Laurel). What is the pleasure of the Sponsor of the bill, Senator Guingona?

giving tenure to the Civil Service, it must be comprehensive and as much as possible it must cover all contingencies.

The President. So, how will it read?

Senator Tamano. Mr. President, as I said, it should read: No officer or employee in the Civil Service shall be suspended, DISMISSED OR OTHERWISE REMOVED, REPLACED OR SUBJECTED TO DISCIPLINARY ACTION except for cause as provided by law and after due process.

The President. What is the pleasure of the Sponsor?

Senator Guingona. Mr. President, we would like to be clarified of the meaning of "REPLACED," pursuant to law. That is the sticky point because when there is a reorganization, for example, done in good faith, the law on reorganization is the justification. And if the meaning of "REPLACED" is that in the future there may be no other who can be hired in a commensurate position after the reorganization, we might find it difficult or impractical. So, may we hear the explanation of the distinguished Proponent?

Senator Tamano. Mr. President, it can happen that a reorganization will effect the removal of some employees, but we are speaking of a reorganization that is made in bad faith.

A poor employee in the Civil Service is at the mercy of those in the higher-ups and sometimes the rigidity of the Civil Service Law prompts such measure which circumvents the protection that is afforded by law to an employee. I am speaking here of a reorganization that is in bad faith. Now, how does the distinguished Gentleman know that it is in bad faith? For example, if there is only a change in the name of the position. Or, Mr. President, the reorganization is just moved around, and the number of employees, for example, remain the same but the nomenclature was changed. There are, it is said, a thousand ways to skin a cat alive.

We are trying to give protection to the poor employees because he is the one who is weak and, therefore, needs protection.

Senator Guingona. With the explanation, Mr. President, we accept the amendment.

Senator Tamano. Thank you, Mr. President.

The President. Is there any objection?

Senator Paterno. Mr. President.

The President. Senator Paterno is recognized.

Senator Paterno. Mr. President, I wonder what the phrase "OTHERWISE SUBJECTED TO DISCIPLINARY ACTION" means because disciplinary action could include reprimand, which seems to me is a disciplinary action that should not require hearing or due process.

Senator Guingona. The disciplinary actions are categorized in the Civil Service Decree, Mr. President, from reprimand to actual dismissal. And in all of these disciplinary actions, the basis is that the respondent must be given the opportunity to be heard. Notice and hearing are basic.

Senator Paterno. My question really is whether reprimand is included in the disciplinary actions contemplated here.

Senator Guingona. Yes, that is a penalty for light offenses under the Civil Service.

Senator Paterno. Yes. Is it my understanding then that reprimand may not be issued until after a hearing is conducted?

Senator Guingona. If the respondent so desires.

The President. If the Chair can interrupt, reprimand is not contemplated here, because we are talking about suspension and dismissal.

Senator Paterno. That is my point, Mr. President, to delimit the disciplinary action that will be subject of due process to the heavy penalties and not the light penalties like reprimand.

parliamentary situation that I am asking for definition of the position of the Lady Senator, so that I can make proper motion in the event that it is her wish that this measure should be recommitted.

The Presiding Officer (Senator Laurel). The Chair would like to know what the position of the Senator from Sulu really is.

Senator Rasul. Thank you, Mr. President.

Inasmuch as this Representation has articulated her observation that there is nothing in the Senate *Rules* that does not allow the distinguished Senator from Iloilo to present that amendatory bill and for it to be recommitted, I would like to say that, in the future, similar cases should be recommitted to the original Committee that studied it. But for now, Mr. President, since there was no objection earlier, this Representation feels that the amendment can be in order. It should be made on the floor.

The Presiding Officer (Senator Laurel). The amendment is declared in order, there being no rule against the amendment by substitution in this particular case.

Senator Enrile. May I make a further clarification, Mr. President? Am I to understand from the Lady Senator that this particular procedure be not taken as a precedent in the Chamber?

The Presiding Officer (Senator Laurel). That is the understanding of the Chair.

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

May I now know, Mr. President, whether we are through with page 1, and that we are now on page 2?

The Presiding Officer (Senator Laurel). The Chair understands from the motion of the Senator from Mindanao that we are not through with page 1. We have just skipped over page 1 to go to page 2, because he has made a reservation to go back to page 1.

Senator Gonzales. Mr. President.

The Presiding Officer (Senator Laurel). The Senator from Mandaluyong has the floor.

Senator Gonzales. Senate Bill No. 38 was originally entitled: AN ACT REPEALING SECTION 40 OF PRESIDENTIAL DECREE NO. 807, OTHERWISE KNOWN AS THE CIVIL SERVICE DECREE. It consists of only one section, and this section says that Section 40 of Presidential Decree 807, otherwise known as the Civil Service Decree, is hereby repealed.

Now, in the course of the interpellations by Senator Guingona, he pointed out that the Civil Service Law, sometimes, because of its strict procedure in disciplinary cases, is used as a shield by some, in his words, "scalawags" in the government service. And so, I said that the remedy will not be the retaining for a simpler and, probably, a more summary procedure in disciplinary cases for as long as the requirements of due process are satisfied. He amended it, and he got my consent to the amendment of my bill on the understanding that what will be amended is merely the procedure in disciplinary cases.

But what actually happened, Mr. President, is that the original amendment was withdrawn, replaced by another amendment; and now, I think, this is already the third substitute bill. This third substitute bill now consists of 15 pages against the one-page bill that I have filed.

I have observed the slow pace at which the amendments are going on. The distinguished Gentleman cannot blame this Body because we are considering this bill, in effect, for the first time, and we do not have the benefit of a study by the Committee on Civil Service and Government Reorganization.

I think, the Chairman of the Committee on Civil Service and Reorganization, Senator Rasul, is being very polite. We actually know what she meant. She, in effect, delivered already a *turno en contra* on this bill which is supposed to have

been recommended by her own Committee, and that would place us in a very, very awkward situation.

SUSPENSION OF THE SESSION

The Presiding Officer (Senator Laurel). The session is suspended for a few minutes, if there is no objection. (*There was none.*)

It was 4:57 p.m.

RESUMPTION OF THE SESSION

At 5:09 p.m., the session was resumed.

The Presiding Officer (Senator Laurel). The session is resumed.

Senator Gonzales. Mr. President.

The Presiding Officer (Senator Laurel). Senator Gonzales is recognized.

Senator Gonzales. Before I was interrupted, Mr. President I was about to say that I want to make a manifestation to this Body that Senator Guingona had asked — and I gave my permission — to amend the original Senate Bill No. 38. However, it was a mistake on my part. I did not realize then what the extent of the amendment would be.

So, we have now a situation where we have quite substantial amendments. And it would be very, very unfair to Senator Guingona because, I think, the substantial portions of the bill are his.

Now, in parliamentary procedure, when there are several authors of the bill, the Member whose name comes first is always considered as the main author of the bill, and that would not be very fair to Senator Guingona; because, I repeat, the more substantial portions of the bill are his. Therefore, in order not to deny him the honor that he actually deserves, I have now second thoughts whether or not the amendment in its present form be accepted.

So, I understand that a question will be

raised by the distinguished Minority Floor Leader.

Senator Enrile. Mr. President.

The Presiding Officer (Senator Laurel). The Minority Floor Leader is recognized.

Senator Enrile. Mr. President, the parliamentary situation, as I understand it, is that the distinguished Senator from Mandaluyong presented Senate Bill No. 38 to repeal Section 40 of Presidential Decree No. 807.

This was referred to the Committee on Civil Service which reported it out for consideration. After that, this was debated on the floor. We reached the period of amendments, and the matter was subjected to the process of amendment.

In the course of considering amendments to this original bill, Senate Bill No. 38, the distinguished Gentleman from Manila and Mindanao and other places proposed an amendment by way of substitution. There was no objection on the part of the distinguished Gentleman from Mandaluyong. But now, he seems to suggest that he cannot accept the amendment by substitution. May I know whether this is a correct understanding?

Senator Gonzales. Well, for the reasons that I explained, and in the present form, then, I regret that I would not be able to accept the bill by substitution, especially in the light of arguments that had been set forth here by no less than the Chairman of the Committee on Civil Service and Government Reorganization.

Senator Enrile. But then, Mr. President, the Chamber is now confronted with a situation where there are two Senate Bill No. 38. The first Senate Bill No. 38, repealing Section 40 of Presidential Decree No. 807, is authored by the distinguished Gentleman from Mandaluyong, Senator Gonzales, and the second one is that of the distinguished Gentleman from Mindanao, Sena-

tor Guingona, which is entitled:

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

Copies of this latter version of Senate Bill No. 38 have been distributed to the Members of the Chamber.

And so, we now have a situation wherein two Senate bills are bearing the same number, and are being considered by the Chamber. In view of this, Mr. President, I will suggest that we recommit these two bills to the proper committee to consolidate them and to bring them out as soon as possible for the consideration of the Chamber.

The Presiding Officer (Senator Laurel). The Chair would like to ask the Senator from Iloilo to make a statement on that particular issue raised by the Minority Floor Leader and the basis of the representations made by the Senator from Mandaluyong.

Senator Guingona. Mr. President, the procedure of introducing an amendment during the course of presentation or consideration of the bill by substitution is allowed under our *Rules*; and since the *Jefferson's Manual* is suppletory to the Senate *Rules*, permit me to read, Mr. President, the pertinent provision which says, and I quote:

An amendment may be made so as totally to alter the nature of the proposition; and it is a way of getting rid of a proposition by making it bear a sense different from what it was intended by the movers, so that they vote against it themselves. A new bill may be ingrafted, by way of amendment, on the words, "Be it enacted."

And so, when we introduced this amendment by substitution, Mr. President, we consulted the distinguished author of the original

bill, and he agreed, although, it seems that there was not a clear understanding as to the scope. We presented the proposed amendment by substitution not only once but twice. At the second time, since there was an adjournment, we even tried to recommit this to the Committee on Civil Service in order to obviate any possible objections. As a matter of fact, we entrusted this amendment by substitution to the Seretariat for referral to the Committee on Civil Service; but we were informed that in accordance with the procedure, the same was not recommitted and that the same would be in order, and it would be taken up on the floor.

The Presiding Officer (Senator Laurel). The Chair understands the parliamentary rules.

Senator Guingona. Therefore, pursuant to that, and upon the suggestion of the distinguished Gentleman from Mandaluyong that we should present it in the form of the original, plus the amendments, we reproduced this.

And so, what I am saying, Mr. President, is that we are only following the sequence of events. We did not intend them in any way, to unnecessarily expand this amendment by substitution or to ignore either the Committee on Civil Service; but in order to obviate everything, we have no objection, Mr. President.

Senator Enrile. Mr. President, I second the motion.

Senator Guingona. May we have the motion again, Mr. President?

MOTION OF SENATOR ENRILE

(Recommittal of Senate Bill No. 38 to the Committee on Civil Service and Government Reorganization)

Senator Enrile. I move that the two versions of Senate Bill No. 38, Mr. President, be returned to the proper committees for consolidation and consideration.

Senator Guingona. For consideration, but since we are already debating this. Mr. President, at the time limit, perhaps with the permission of the Chairperson, in one week or two weeks, according to them, for recommitting.

The Presiding Officer (Senator Laurel). There is a motion on the floor seconded by no less than the Senator-Proponent of the amendment by substitution, that these two bills, both numbered 38, be recommitted to the Committee on Civil Service and Government Reorganization.

Is there any objection? (*Silence*). The Chair hears none; the same is approved.

Senator Enrile. Thank you, Mr. President.

The Presiding Officer (Senator Laurel).
The Majority Floor Leader.

ADJOURNMENT OF THE SESSION

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

The Presiding Officer (Senator Laurel). Is there any objection? [*Silence*] The Chair hears none; the session is adjourned until four o'clock tomorrow afternoon.

It was 5:20 p.m.



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Senator Herrera. Well, not necessarily waive, they should negotiate. Do not expect the employer to give up voluntarily.

Senator Guingona. I see. My last point, Mr. President, is on the automatic of Section 8. The distinguished Sponsor has said that the basis for the review every year by the President is not based on index of cost of living allowance.

Senator Herrera. Yes, one of the factors.

Senator Guingona. And, therefore, this is not really automatic.

Senator Herrera. Yes, it is not really the strict wage indexation system. That is why it is modified.

Senator Guingona. Therefore, it is simply a review, basing the review on these factors that is mentioned in the bill.

Senator Herrera. Not just merely a review, but based on the study of the National Census and Statistics that there is an increase in the CPI and that other economic factors that would warrant an increase, then the President is authorized under this law to give an increase, but not more than 15 per cent.

Senator Guingona. Yes, but it is not automatic.

Senator Herrera. It is not automatic.

Senator Guingona. Yes.

Senator Herrera. And it has to wait for an order from the President.

Senator Guingona. Yes. And economic recovery requirements would include productivity, would it not?

Senator Herrera. Yes, of course.

Senator Guingona. Thank you, Mr. President.

Senator Mercado. Mr. President.

The President. The Majority Floor Leader.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 156

Senator Mercado. Mr. President. I move that we suspend consideration of Senate Bill No. 156.

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

BILL ON SECOND READING Senate Bill No. 38 – Civil Service Decree (Continuation)

Senator Mercado. Mr. President, I move for the suspension of the Rules to consider Senate Bill No. 38, An Act Repealing Section 40 of Presidential Decree No. 807, Otherwise Known as the Civil Service Decree. I would like to remind about it that before this was recommitted, Mr. President, to the Committee on Civil Service, we were in a period of amendments. Now, there was an amendment by substitution on the part of Senator Guingona. Both have been referred to the Committees and separate reports have been made. With the suspension of the *Rules*, maybe, Mr. President, we can consider and vote, if there are no other amendments on the said bill.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Mr. President, considering that I was the person who was responsible for the delay due to the amendment that was referred back to the Committees, may I, therefore, move in accordance with the suspension of the Rules for the approval of Senate Bill No. 38, Mr. President.

The President. Is this the bill of Senator Gonzales . . .

Senator Guingona. Yes, Mr. President.

**APPROVAL OF SENATE BILL NO. 38
ON SECOND READING
(Civil Service Decree)**

The President. . . . Which consists only of two sentences — the repeal of Section 40 of Presidential Decree 807.

Is there any objection to the motion? [*Silence*] There being none 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 Aye.*] As many as are against will please say *Nay*. [*Silence*]

Senate Bill No. 38 is approved on Second reading, as amended.

**BILL ON SECOND READING
Senate Bill No. 52 — Franking Privilege
(Continuation)**

Senator Mercado. Mr. President, I move for the consideration of Senate Bill No. 52:

AN ACT TO EXTEND THE FRANKING PRIVILEGE OF THE MEMBERS OF CONGRESS BEYOND AUGUST 30, 1987

The President. What Senate Bill is this?

Senator Mercado. Senate Bill No. 52, Mr. President. I also move for the suspension of the Rules.

The President. All right, is there any objec-

tion? [*Silence*] The Chair hears none; the motion is approved.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

**APPROVAL OF SENATE BILL NO. 52
ON SECOND READING**

Senator Maceda. Mr. President, with the suspension of the *Rules*, I move for the approval of this measure, which is a measure that is present in all legislative bodies of the world.

The President. Is there any objection? [*Silence*] There being none; we shall now vote on the bill on Second Reading.

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

Senate Bill No. 52 is approved on Second Reading.

ADJOURNMENT OF THE SESSION

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

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

It was 7:09 p.m.



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RESUMPTION OF THE SESSION

At 5:44 p.m., the session was resumed.

The President. The session is resumed.

MOTION OF SENATOR MERCADO (Referring the Speech of Senator Pimentel to an ad hoc committee)

Senator Mercado. Mr. President, I move that the matter of the privilege speech of Senator Pimentel be referred to an ad hoc committee, composed of five Senators, namely, Senators Guingona, Osmeña, Paterno, Romulo, and Tañada.

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

BILLS ON THIRD READING

Senate Bill No. 38 – Repealing Section 40 of the Civil Service Decree

Senator Mercado. Mr. President, I move that we vote on Third Reading, Senate Bill No. 38,

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

Printed copies of the said Bill were distributed to the Senators on the 21st of October this year.

The President. May I have a copy of that? This is the Act repealing Section 40 of Presidential Decree numbered 807, consisting of only two sentences. Let us have a roll call vote on this.

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

Senator Romulo. May we just ask the Chair or the Secretary to read those two lines, Mr. President.

The President. Yes.

The Secretary. Senate Bill No. 38, entitled:

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

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

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

Senator Romulo. Thank you, Mr. President.

The President. The Sponsor of this bill is Senator Neptali Gonzales.

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 Aquino, Senator Estrada, Senator Gonzales, Senator Guingona, Senator Herrera, Senator Laurel, Senator Lina, Senator Maceda, Senator Mercado, Senator Osmeña, Senator Paterno, Senator Pimentel, Senator Romulo, Senator Saguisag, Senator Salonga, Senator Tañada, Senator Ziga

NO – 0

ABSTENTION – 0

RESULT OF VOTING

The President. With 19 affirmative votes, no negative vote, and no abstention, Senate Bill No. 38 is approved on Third Reading.

BILL ON THIRD READING

Senate Bill No. 52 – Franking Privilege

Senator Mercado. Mr. President, I move that we vote on Third Reading, Senate Bill No. 52:

AN ACT TO EXTEND THE FRANKING PRIVI-

LEGE OF THE MEMBERS OF CONGRESS
BEYOND AUGUST 30, 1987.

Printed copies of the said bill were distributed to the Senators on October 21, 1987.

The President. Let us proceed with the roll call vote.

The Secretary called the roll and the result of the voting was as follows:

YES — 20

Senator Alvarez	Senator Mercado
Senator Angara	Senator Osmeña
Senator Aquino	Senator Paterno
Senator Estrada	Senator Pimentel
Senator Gonzales	Senator Romulo
Senator Guingona	Senator Saguisag
Senator Herrera	Senator Salonga
Senator Laurel	Senator Tamano
Senator Lina	Senator Tañada
Senator Maceda	Senator Ziga

NO — 0

ABSTENTION — 0

RESULT OF VOTING

The President. With 20 affirmative votes, no negative vote, and no abstention, Senate Bill No. 52 is approved on Third Reading.

Senator Enrile. Mr. President, may I know how my vote was registered?

The President. There is no vote registered here. Evidently, the Minority Floor Leader might have been out.

Senator Enrile. May I register an affirmative vote, if it is possible, Mr. President?

The President. Senator Enrile's affirmative vote is registered. So, there will be a total of 21 affirmative votes.

Senator Enrile. And may I also register an affirmative vote with respect to Senate Bill No. 38?

The President. Let that be recorded.

Senator Tamano. Mr. President.

The President. Senator Tamano is recognized.

Senator Tamano. In connection with Senate Bill No. 38, may I request that my vote be recorded in the affirmative.

The President. Let it be recorded.

CONSIDERATION OF SENATE JOINT
RESOLUTION NO. 1

Joint Legislative-Executive Committee on
Military Bases
(Continuation)

Senator Mercado. Mr. President, I move that we consider Committee Report No. 50 on Joint Resolution No. 1 submitted by the Committee on Foreign Relations, entitled:

JOINT RESOLUTION CREATING A JOINT LEGISLATIVE-EXECUTIVE COMMITTEE TO REVIEW THE 1947 MILITARY BASES AGREEMENT AS AMENDED, THE 1951 MUTUAL DEFENSE TREATY, THE 1953 MILITARY ASSISTANCE AGREEMENT, AND ALL OTHER SECURITY ARRANGEMENTS BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE UNITED STATES OF AMERICA AND SUBMIT ITS RECOMMENDATIONS.

We are still in the period of interpellations. I move that we recognize Senator Gonzales.

The President. Senator Gonzales is recognized.

Senator Gonzales. Mr. President, we are still in the period of interpellations. During the session of October 23, 1987, our last day of session before the recess, the President asked the following question:

Considering that this is a Joint Legislative-Executive Committee, the Chair would like to find out whether we have sounded out the Office of the President and in particular, the Secretary of Foreign Affairs, to find out whether