



REPUBLIC OF THE PHILIPPINES  
**Senate**  
Pasay City

# Journal

**SESSION NO. 58**  
Wednesday, February 2, 2011

**FIFTEENTH CONGRESS**  
**FIRST REGULAR SESSION**

---

**SESSION NO. 58**  
Wednesday, February 2, 2011

**CALL TO ORDER**

At 3:25 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

**PRAYER**

Sen. Ramon "Bong" Revilla Jr. led the prayer, to wit:

Heavenly Father,

Guide us as we pursue our purpose as legislators and leaders:

Help us to achieve our vision for the welfare of the Filipino people;

You are our guiding light, our true source of wisdom;

Let us follow Your path.

In these times of trouble and tragedies, let justice prevail for it is upon justice that a peaceful, civilized and progressive society can be built.

Enlighten us, O God, and forgive us for our shortcomings;

Bless us, unite us, so that we may have better understanding.

We ask these as we seek peace in our country and also seek peace within ourselves.

Amen.

**SUSPENSION OF SESSION**

With the permission of the Body, the Chair suspended the session.

*It was 3:25 p.m.*

**RESUMPTION OF SESSION**

At 3:27 p.m., the session was resumed.

**ROLL CALL**

Upon direction of the Chair, the Secretary of the Senate, Atty. Emma Lirio-Reyes, called the roll, to which the following senators responded:


Angara, E. J.	Lapid, M. L. M.
Arroyo, J. P.	Legarda, L.
Cayetano, P. S.	Osmeña III, S. R.
Drilon, F. M.	Revilla, Jr., R. B.
Ejercito Estrada, J.	Sotto III, V. C.
Enrile, J. P.	Trillanes IV, A. F.
Honasan, G. B.	Zubiri, J. M. F.

With 14 senators present, the Chair declared the presence of a quorum.

Senators Defensor Santiago, Escudero, Guingona, Marcos, Pangilinan, Recto and Villar arrived after the roll call.

Senator Cayetano (A) was on official mission.

Senator Lacson was absent.



## APPROVAL OF THE JOURNAL OF SESSION NO. 57, AS CORRECTED

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 57 and considered it approved, subject to the following corrections made by Senator Drilon:

1. On page 1031, left column, third paragraph, change the citation "*Court of Appeals vs. MIAA*" to *MIAA VS. COURT OF APPEALS*;
2. On the same page, right column, eighth line of the second paragraph, change the word "decent" to *DIFFERENT*;
3. On page 1032, left column, penultimate line of the first paragraph, change the word "complicated" to *DUPLICATED*;
4. On page 1033, left column, amend the last sentence of the second paragraph as follows: "SENATOR DRILON AGREED AND STATED THAT SHOULD THESE CORPORATIONS INVEST, FOR EXAMPLE, IN POWER GENERATION, THIS IS ONLY AN INVESTMENT MADE BECAUSE THEY BELIEVE THAT THE RETURNS ON THE INVESTMENT WOULD BEST SERVE THE INTEREST OF ITS MEMBERS."; and
5. On the same page, same column, third paragraph, between the words "national" and "plan," insert the word *DEVELOPMENT*.

*At this juncture, Senate President Enrile relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.*

## REFERENCE OF BUSINESS

The Deputy Secretary for Legislation, Atty. Edwin B. Bellen, read the following matters and the Chair made the corresponding referrals:

### BILLS ON FIRST READING

Senate Bill No. 2669, entitled

AN ACT REGULATING THE EDUCATION  
AND LICENSURE OF PHYSICIANS

AND THE PRACTICE OF MEDICINE  
IN THE PHILIPPINES, REPEALING  
FOR THE PURPOSE REPUBLIC ACT  
NO. 2382, AS AMENDED, AND FOR  
OTHER PURPOSES

Introduced by Senator Drilon

**To the Committees on Civil Service and  
Government Reorganization; Education, Arts  
and Culture; and Finance**

Senate Bill No. 2670, entitled

AN ACT REQUIRING TECHNOLOGICAL  
CHOICE IN THE GOVERNMENT'S  
PROCUREMENT OF INFORMATION  
AND COMMUNICATION TECH-  
NOLOGY STANDARDS AND SOLU-  
TIONS

Introduced by Senator Angara

**To the Committee on Science and Tech-  
nology**

### RESOLUTIONS

Proposed Senate Resolution No. 361, entitled

RESOLUTION URGING THE SENATE  
COMMITTEE ON TRADE AND  
COMMERCE AND OTHER APPRO-  
PRIATE COMMITTEES, TO CONDUCT  
AN INQUIRY, IN AID OF LEGIS-  
LATION, ON THE PROLIFERATION  
OF "BOTCHA" OR HOT MEAT  
BEING SOLD IN THE MARKET  
DESPITE HEALTH HAZARDS  
POSED ON FILIPINO CONSUMERS

Introduced by Senator Villar

**To the Committees on Trade and Commerce;  
and Health and Demography**

Proposed Senate Resolution No. 362, entitled

RESOLUTION RECOMMENDING TO  
THE SENATE COMMITTEE ON  
ECONOMIC AFFAIRS AND OTHER  
APPROPRIATE COMMITTEES TO  
CONDUCT A STUDY, IN AID OF  
LEGISLATION, ON THE MECHANISMS

*PO*

TO STRENGTHEN THE PHILIPPINE WEAVING INDUSTRY WITH THE END IN VIEW OF PROMOTING THE COMPETITIVENESS OF PHILIPPINE TEXTILES AND THE PRESERVATION OF THIS RICH CULTURAL HERITAGE

Introduced by Senator Villar

**To the Committee on Trade and Commerce**

### COMMUNICATION

Letter from the *Bangko Sentral ng Pilipinas*, dated 31 January 2011, submitting to the Senate the Report to Congress on Public Sector/ Publicly-Guaranteed Private Sector Foreign Loans approved by the *Bangko Sentral ng Pilipinas* for the Fourth Quarter of 2010 and the entire 2010.

**To the Committees on Finance; and Economic Affairs**

### ADDITIONAL REFERENCE OF BUSINESS

#### COMMITTEE REPORT

Committee Report No. 16, prepared by the Committee on Civil Service and Government Reorganization, on Senate Bill No. 2671, with Senators Trillanes IV and Revilla Jr. as authors thereof, entitled

AN ACT STRENGTHENING THE CAREER EXECUTIVE SYSTEM,

recommending its approval in substitution of Senate Bill Nos. 15 and 1995.

Sponsor: Senator Trillanes VI

**To the Calendar for Ordinary Business**

### ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of the following guests:

- Students and teachers from Colegio de San Agustin, Biñan, Laguna;

- Students of the Educational Management Program, PUP Graduate School;
- Members of the Philippine Federation of Catholic Broadcasters from 38 provinces;
- Mayor Mateo L. Chiyawan of Natonin, Mountain Province;
- Students of the College of Arts and Sciences, Central Luzon State University of Muñoz, Nueva Ecija;
- Chairman Bernardo Abesamis of the Career Executive Service Board; and
- Chairman Francisco Duque of the Civil Service Commission.

Senate President Pro Tempore Ejercito Estrada welcomed the guests to the Senate.

### SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 16 on Senate Bill No. 2671 from the Calendar for Ordinary Business to the Calendar for Special Orders.

### COMMITTEE REPORT NO. 16 ON SENATE BILL NO. 2671

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2671 (Committee Report No. 16) entitled

AN ACT STRENGTHENING THE CAREER EXECUTIVE SYSTEM,

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Sotto, only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

The Chair recognized Senator Trillanes for the sponsorship.

### SPONSORSHIP SPEECH OF SENATOR TRILLANES

In presenting Senate Bill No. 2671 for plenary consideration, Senator Trillanes delivered the following speech:

yo

## AN ACT STRENGTHENING THE CAREER EXECUTIVE SYSTEM

The Committee on Civil Service and Government Reorganization has the honor to report back for the consideration and approval of this august Chamber, Senate Bill No. 2671, under Committee Report No. 16, entitled AN ACT STRENGTHENING THE CAREER EXECUTIVE SYSTEM.

### I. Introduction: the Acosta Case

On January 3, 2011, the Department of Justice, through Chief State Counsel Ricardo Paras, issued a legal opinion stating that the top officials of the Public Attorney's Office (PAO), including the chief public attorney, its deputy chief and regional public attorneys, are occupying permanent positions without the necessary qualifications. The opinion stated that said officials are required by law to be Career Executive Service (CES) eligibles to become permanent appointees. Failure to meet this requirement allows the appointing authority to remove them from position, without violating their constitutional and statutory rights to security of tenure.

This legal opinion of the Chief State Counsel provoked a very public and tearful reaction from PAO Chief Persida Acosta, who suggested on national television that they were apparently being eased out for political reasons.

In connection with this opinion — which is not yet final and is pending review and approval of Sec. Leila de Lima — the Career Executive Service Board (CESB) denied the petition filed by PAO officials seeking exemption from taking the CES examination. The CESB cited its Resolution 918, stating that for purposes of security of tenure, two requirements must be complied with:

- First, a CES eligibility; and
- Second, for an incumbent to be appointed to CES rank by the President.

In reaction to the unfolding drama, the Civil Service Commission rendered a separate opinion regarding this matter.

The CSC, citing the Constitution and relevant civil service laws, stated that "RA 1080 is the appropriate civil service eligibility. Accordingly, any imposition of a third-level eligibility is not proper, if not illegal, under the circumstances." The CSC further stated that "for purposes of permanent appointment to the positions of Chief Public Attorney, Deputy Chief Public Attorney, and the Regional Public Attorney, no third-level eligibility is required but only RA 1080 (BAR) eligibility."

As expected, PAO Chief Persida Acosta, supported and lauded the CSC's opinion and now claims that the CSC's opinion is superior to that of the CESB, the CESB being an agency merely attached to the CSC. This view is anchored on Acosta's construction of relevant provisions in Executive Order No. 292 or the *Administrative Code of 1987 Citing Section 12(5)* which provides CSC's power to "render opinion and rulings on all personnel and other civil service matters, which shall be binding on all heads of departments, offices and agencies," Acosta noted CSC's ascendancy over CESB

### II. Rationale

The current confusion on the role and jurisdiction of CSC and CESB vis-à-vis each other, as highlighted by the case of PAO Chief Persida Acosta, is an offshoot of the current setup of the Career Executive System.

For clearer discussion, permit me to elaborate on some key aspects of the CES.

#### *The Civil Service Commission*

Section 3, Section IX(B) of the Constitution mandates the Commission on Civil Service — as the central personal agency of the Government — to "establish a career service and to provide the public sector with a well-selected and development-oriented corps of public managers who possess the necessary expertise and responsive leadership that will serve as a stabilizing force, an instrument for change, a vanguard of professionalism and careerism in the civil service, and a critical link between the government and the people."

Also, under the Administrative Code of 1987, the CSC is tasked to "administer and enforce the constitutional and statutory provisions on the merit system for all levels and ranks in the Civil Service."

#### *Career Executive Service Board*

Despite the constitutional and statutory mandate given to CSC, under the present setup, there is an existing separate body called the Career Executive Service Board which handles the Career Executive Service which is the "third level of the managerial class in the group of career positions in the Philippine civil service."

CESB was formed to create a "continuing pool of well-selected and development-oriented career administrators who shall provide competent and faithful service."

It must be noted that CESB predated the current Constitution and Administrative Code. CESB was created under Presidential Decree

No. 1 which approved the Integrated Reorganization Plan of 1972.

In sum, under this existing system – as CESB’s website also proclaims – there are two distinct systems in the civil service

- The CES — which is also a public personnel system program – as managed by CESB; and
- the first two levels of positions in the Philippine civil service program handled by CSC.

### III. Salient Features

This absurd situation leads to conflicting views and overlapping jurisdiction – as exemplified by the Acosta case. Hence, the urgent need to correct the flaw – the urgent need to pass a remedial measure.

After consultation with various stakeholders in the civil service system, your Committee recognized the need to strengthen the Career Executive System in the country through the passage of this measure. It aims to do this by legislating the following structural and substantial changes:

#### Structural

- First, to consolidate the mandate of managing government personnel of all ranks, the Career Executive System Board will be transferred to the administrative supervision of the Civil Service Commission from the Office of the President;
- Second, in pursuance of the previously mentioned aim and to ensure consistency and coordination of policies, plans and programs adopted and implemented by the CSC and the CESB, the chairperson of the Commission will now serve as the Board’s *ex-officio* chairperson;
- Third, in relation to the composition of the Board, from its original composition of eight members — where the CSC and the Development Academy of the Philippines President sit as the two *ex-officio* members together with the six presidential appointees for six-year term the composition will be modified as follows.

The bill seeks to increase the number of *ex-officio* members to four, namely.

- The secretary of the Department of Budget and Management (DBM) or his/her permanent representative holding a position not lower than an under-secretary;

The president of the Development Academy of the Philippines;

- The dean of the National College of Public Administration and Governance (NCPAG) of the University of the Philippines; and
- The president or representative of a duly accredited national federation or union of Career Executive Officers.

The bill seeks to decrease the number of presidential appointees from six to three, who shall serve for a term of three years instead of six, namely:

- The president or a representative of a nationwide association of personnel and/or human resource practitioners in the private sector,
  - The president or a representative of the Philippine Association of Professional Regulatory Board Members (PAPRBM); and
  - A representative of the Office of the President.
- Fourth, in relation to the law’s coverage, executives and managers of Government-Owned and -Controlled Corporations would be included under the coverage of CES, insofar as GOCCs which are covered by the Civil Service Law are concerned.
  - Fifth, the bill seeks to consolidate and expand the functions of the Board to include:
    - Promulgation of rules, standards and procedures in the recruitment, selection, assignment to positions, attestation of appointment to CES positions, conferment of ranks, classification, compensation, mobility, performance management, tour of duty, rewards and incentives, and training and career development of CEOs and CEO-Es.
  - Sixth, the bill likewise seeks to clarify and plug the gaps in the current laws by categorically stating that the Career Executive System shall cover “*all executive and managerial positions in the third level of the career service.*” This would settle the prevailing legal controversy on whether or not positions above the division chief who are not appointed by the President are covered by the Career Executive System.
  - Lastly, the bill also seeks to provide stability in the leadership of public institutions by prescribing a fixed “tour of duty” of three (3) years for career executive officials, during which they cannot be transferred to other offices or positions without their consent.

Maintaining a competent and professional corps of civil servants is essential in ensuring the consistency of the delivery of vital services and programs to the public. It is once said that the head – the president – may come and go, but our civil servants who serve as the backbone of the government will remain.

Thus, it is necessary for us to install a system which would ensure merit and fitness among our government employees – of whatever rank.

Today, I humbly submit this measure for the consideration of our colleagues -- with that basic aim of improving the delivery of government service to the people

Through this measure, it is expected that the principles of merit and fitness will be the prevailing norm among our civil servants. It is hoped that the improved Career Executive System – which we seek to install through this measure -- will provide checks and balances and insulate the Career Executive System and the Career Executive Board from political interferences and encourage the professionalization of our government managers and executives.

Once more, we seek to make the constitutional principles of security of tenure and mobility in government service a reality for our civil servants.

In view of the foregoing, I urge this Body to support the passage of this measure.

I also move that the explanatory note of Senate Bill No. 1995, as authored by Senator Revilla, be inserted as part of the sponsorship speech.

Hereunder is the explanatory note of Senate Bill No. 1995:

It is enshrined in our Constitution that the Civil Service Commission, as the central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability (Section 3, Article IX, B).

The civil service system is composed of first, second and third levels. Position in executive and managerial

services constitute the biggest component of the third level. This component of the Civil Service plays a significant role in the bureaucracy since they have a direct hand in both the formulation and implementation of the government policies.

This proposed measure seeks to improve the current concept of our Career Executive System. Thus, passage of this bill is earnestly sought

## **SUSPENSION OF SESSION**

Upon motion of Senator Defensor Santiago, the Chair suspended the session to allow the Members to congratulate Senator Trillanes on his maiden speech and to formally welcome him to their ranks.

*It was 3:50 p.m.*

## **RESUMPTION OF SESSION**

At 3:50 p.m., the session was resumed.

## **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2671**

Upon motion of Senator Sotto, there being no objection, the Body suspended consideration of the bill.

## **ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS**

At this juncture, Senator Sotto acknowledged the presence in the gallery of the guests of Senator Zubiri:

- Dr. Llewellyn Young Ramsar, Senior Adviser for Asia-Oceania of the Convention on Wetlands; and
- Dr. Mundita Lim, head of the DENR – Protected Areas and Wildlife Bureau.

Senate President Pro Tempore Ejercito Estrada welcomed the guests to the Senate.

## **MANIFESTATION OF SENATOR SOTTO**

Senator Sotto informed the Body that interpellations on the different committee reports, Committee Report Nos. 1 to 16, have been scheduled for Monday to Wednesday the following week. He added that interpellations on Committee Report Nos. 5 and 6,

*105*

supposedly set for the day's session, had likewise been moved to next week.

### SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

*It was 3:52 p.m.*

### RESUMPTION OF SESSION

At 3:58 p.m., the session was resumed.

### SECOND ADDITIONAL REFERENCE OF BUSINESS

The Secretary of the Senate read the following Committee Report which the Chair assigned to the Calendar for Ordinary Business:

Committee Report No. 17, submitted by the Committee on Rules, on Senate Joint Resolution No. 6, introduced by Senator Angara, entitled

JOINT RESOLUTION CREATING A CONGRESSIONAL OVERSIGHT COMMITTEE ON EDUCATION, TO REVIEW AND ASSESS PHILIPPINE EDUCATION, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES,

recommending its approval with amendments.

Sponsor: Senator Sotto

### COMMITTEE REPORT NO. 16 ON SENATE BILL NO. 2671

*(Continuation)*

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2671 (Committee Report No. 16), entitled

AN ACT STRENGTHENING THE CAREER EXECUTIVE SYSTEM

Senator Sotto stated that the parliamentary status was the period of interpellations.

Thereupon, the Chair recognized Senator Trillanes, Sponsor of the measure, and Senator Cayetano (P) for her interpellation.

### INTERPELLATION OF SENATOR CAYETANO (P)

Senator Cayetano (P) stated that in his sponsorship speech, Senator Trillanes cited the case of the chief public attorney of the Public Attorney's Office (PAO) as an example of the confusion that arose because of different opinions that, in turn, were based on conflicting laws and issuances. Specifically, she noted that the two laws cited had, in effect, created two bodies that govern the status and eligibility of career executive officials. She asked how the bill would address such a situation. Senator Trillanes confirmed that the Career Executive Service Board and the Civil Service Commission issued contrary opinion concerning the case of PAO Chief Persida Acosta: the CES Board believed that the position of Chief Public Attorney is part of the third-level or managerial class in the group of career positions in the Civil Service that are under its jurisdiction, but the CSC believed otherwise, invoking RA 1080.

Senator Trillanes explained that the CES Board was established under Presidential Decree No. 1, while the Civil Service Commission was created under the 1987 Constitution, to administer and enforce the constitutional and statutory provisions on the merit system for all levels and ranks in the civil service. Despite the creation of the CSC, he stated that the CES Board continued to exist because Executive Order No. 292 or the Administrative Code of 1987 that was issued later, did not repeal Presidential Decree No. 1. He said that since the CSC and the CES Board have different mandates, an overlapping in jurisdiction occurred, as exemplified in the case of Atty. Acosta. He affirmed that this kind of overlapping has been recurring.

Replying to queries of Senator Cayetano (P) regarding the different eligibility requirements imposed by the CSC and the CESB, Senator Trillanes explaining that the requirement for a CES eligibility would be retained and that the measure would only effect a structural reorganization in the bureaucracy: the CES Board, which is presently under the supervision of the Office of the President, would now be placed directly under the administration and supervision of the Civil Service Commission as envisioned in the Constitution.



Senator Cayetano (P) noted that what created the confusion was that the CSC has its own decision, while the CESB was taking direction from the Office of the President.

Asked if the President still retains his power to appoint the members of the CES Board, Senator Trillanes affirmed as he explained that the President would still appoint members to the Board for a three-year term, although the number of presidential appointees would be reduced from six to three; and to appoint officials to certain levels of the bureaucracy. However, he said that while bureaucracy officials may be appointed even without civil service eligibility, they would still have to comply with the civil service eligibility requirement to be able to acquire security of tenure.

On the composition of the CES Board, Senator Trillanes said that the additional members would be the dean of the National College of Public Administration and Governance (NCPAG) of the University of the Philippines, the DBM secretary and the president of the duly-accredited national federation or union of Career Executive Officers. He said that the previous six presidential appointees to the CES Board were appointed at large and had no specific designations. He affirmed that the measure would provide a more definitive description of who could be appointed by the President to the Board.

Noting that the bill would also cover executives and managers of GOCCs, Senator Cayetano (P) underscored the need for the measure to be consistent with the proposed GOCC Governance Act that was being sponsored by Senator Drilon, particularly on the composition of the GOCC boards and the standards on hiring and compensation. Senator Trillanes gave the assurance that the Committee would be coordinating with Senator Drilon to harmonize their respective bills, although he believed that there would be no inconsistencies as the bill would, in fact, strengthen the workforce of the GOCCs.

Asked whether persons holding positions above the division chief level but are not appointed by the President would now be covered by the Career Executive System, Senator Trillanes replied in the affirmative.

At this point, Senator Cayetano (P) expressed support for the bill which she believed would strengthen the civil service system and would provide security of tenure especially to those who rose from the ranks.

## SUSPENSION OF SESSION

Acting on Senator Osmeña's request, upon motion of Senator Sotto, the session was suspended.

*It was 4:15 p.m.*

## RESUMPTION OF SESSION

At 4:19 p.m., the session was resumed.

## MANIFESTATION OF SENATE PRESIDENT ENRILE

Presenting the historical background of the Career Executive System, Senate President Enrile said that P.D. No. 1, which created the Career Executive Service Board, was issued under the 1935 Constitution because at the time, there was no constitutional body that would prepare the bureaucracy for a system of careerism and professionalization.

Senate President Enrile narrated that when martial law was declared, one of the objectives of the Marcos administration was to truly reform the Civil Service in order to produce a corps of career-efficient and skilled bureaucrats for the country because there was already a plan to convert the political structure of the government from a presidential system to a parliamentary system. He pointed out that a Constitutional Convention was, in fact, convened in 1971 to revise the 1935 Constitution, the main thrust of which was to change the presidential system to a parliamentary system, thereby requiring a very skilled and efficient bureaucracy composed of a well-developed career civil service organization. Thus, he said that the Civil Service Commission was re-created and made a constitutional body under the 1973 Constitution which, however, was not fully implemented in spite of the fact that the country adopted a parliamentary system of government, because along the way, martial law, which was envisioned to be temporary until the supposed presidential election towards the end of 1973, was not lifted. He said that when President Marcos extended his rule, a hybrid system of government, the de Gaulle system of governmental structure, was adopted where he assumed the powers of the President under the 1935 Constitution, the powers of the Prime Minister under the 1973 Constitution, and even legislative powers under the 1935 Constitution, whether or not a Congress existed.

whereby he could make laws in the form of decrees which he himself issued. He said that this act by the President later became popularly known as Amendment No. 6 to the 1973 Constitution.

He said that the 1973 Constitution was later on discarded and was replaced by a revolutionary constitution under the administration of President Corazon Aquino who caused the creation of a Constitutional Commission composed of 60 selected constitutional commissioners who framed the 1987 Constitution. He stated that the 1987 Constitution institutionalized the Civil Service Commission as a constitutional body invested with the power to establish a career civil service system and effectively repealed Presidential Decree No. 1.

Relative thereto, Senate President Enrile recalled that when Atty. Persida Acosta, Chief of the Public Attorneys' Office (PAO), approached him to sponsor a bill to strengthen and reform the structure of the office, he sought to provide in the bill a provision granting PAO appointees security of tenure, meaning they cannot be removed from office except for cause as provided by law. He said that the provision gave merit to the theory behind the creation of the PAO that the State is duty-bound to render justice and to provide a fair trial to anyone who is accused of committing a crime but cannot afford the services of private lawyers. This, he said, is to ensure that the accused is ably represented, in the same manner that the State spends money to prosecute criminals to enforce the law. He added that the PAO was actually a re-creation of the Public Defenders' Office under the Commonwealth period.

Senate President Enrile stated that the rationale behind the provision of security of tenure to PAO lawyers was to ensure that people who would be appointed to such very essential yet delicate function could not be pressured by any politician or any influential person in the performance of their duties of protecting the interest of poor litigants in the country.

As to whether or not PAO lawyers should be CES eligibles, Senate President Enrile expressed the belief that the requirement is unnecessary because they are practicing their profession as lawyers who are trained in the art of law. He reiterated that the provision of security of tenure was included in the PAO law to see to it that PAO lawyers could not be removed without just cause particularly since

their primary responsibility is to fight for the cause of poor litigants.

### **INTERPELLATION OF SENATOR DRILON**

Senator Drilon asked how the measure could resolve the conflicting interpretations issued by the CSC and the CESB which arose out of the PAO statute. He also sought clarification whether the measure would give the CESB the jurisdiction to rule on the eligibility of the PAO Chief, Atty. Persida Acosta, instead of the Civil Service Commission. Senator Trillanes pointed out that since both agencies would be headed by the same chairman, it would be absurd for the chairman of the Civil Service Commission to issue a ruling different from that of the CESB which would be technically under the CSC's administrative supervision. Senator Drilon, however, pointed out that the opinion of the chairman, although it may carry weight, is not necessarily the decision of the board since he can be overruled by the other members of the board. He agreed on the need to reform the structure in order to avoid conflicts in interpretation.

As to who would have the final say as to whether or not PAO Chief Acosta is covered by the Career Executive System, Senator Trillanes stated that it would be the CESB that would have the final authority to decide on the case and on similar cases of all those who are part of the Career Executive System.

But Senator Drilon pointed out that the Civil Service Commission is a constitutional body whose functions are set forth in the Constitution. He expressed apprehension that the law could be questioned later as it would, in effect, deprive the CSC of the authority and power to rule on the eligibility of government executives who are part of the civil service. Senator Trillanes clarified that the ruling of the CESB is appealable to the Civil Service Commission, hence, the latter shall retain its power as stipulated in the 1987 Constitution.

Senate President Enrile pointed out that the CESB was created under P.D. No. 1, while the PAO law was enacted by Congress. Asked whether the CSB would have authority superior to the present Congress of the Republic of the Philippines, Senator Trillanes conceded that the CESB has no choice but to adhere to the existing PAO law which does not require its officers to comply with CES eligibility requirements.

10

Senate President Enrile pointed out that if Congress could abolish the CESB, the latter has no power to overrule Congress and is duty-bound to obey the mandate of the law which, in the case of the PAO law, is that people employed in the PAO, who are required to have knowledge of the law, cannot be removed without cause. Senator Trillanes stated that if CESB is indeed faithful to its mandate, it has no choice but to rule in PAO's favor.

Senate President Enrile further opined that if the CESB, which was created under P.D. No. 1, could compel the head of the PAO Chief to comply with the requirement of acquiring a CES eligibility, it would, in effect, be overruling Congress. He noted that Senator Drilon's query as to which body should dispose of the conflict is a valid question, and he agreed on the need to refine the law in order to prevent any further confusion or conflict in its interpretation.

At this point, Senator Drilon asked which provision in the bill gives the CESB jurisdiction to rule on questions on the eligibility of a person and whether its decision is appealable to the CSC. Senator Trillanes replied that the powers and functions of the board relative thereto are found in Section 7 of the bill, to wit:

*Sec. 7 Powers and Functions of the Board.*  
 -- The Board shall be the policy-making body for the Career Executive System. It shall promulgate rules, standards and procedures in the recruitment, selection, assignment to positions, attestation of appointment to CES positions, conferment of ranks, classification, compensation, mobility, performance management, tour of duty, rewards and incentives, and training and career development of CEOs and CEO-Es

Should an interested party dispute the ruling of the CESB for or against the PAO Chief, Senator Drilon asked which part of the measure provides that the decision of the CESB is appealable to the CSC. Replying thereto, Senator Trillanes adverted to Section 17 that provides:

Section 17. *Discipline* - Investigation and adjudication of administrative complaints against occupants of position in the CES shall be primarily vested in the assigning agency; *Provided*, that, decisions in such cases shall be appealable to the Board; *Provided, further*, that the decisions of the Board, in the exercise of its

primary and/or appellate jurisdiction, shall be appealable to the Commission without prejudice to the principle of exhaustion of administrative remedies.

Asked by Senate President Enrile if PAO lawyers are required to take an examination to become members of the Career Executive System, Senator Trillanes said that while PAO lawyers are exempted from acquiring CES eligibility under the PAO law, they should possess a CES eligibility should they opt to be covered by the Career Executive System.

Relative thereto, Senate President Enrile asked on the type of examination that CESB would administer to lawyers who perform purely legal functions, and whether it would require the taking of another bar examination which they have already passed under the supervision of the Supreme Court, which has sole authority to conduct the same. He believed that if the CESB would require PAO lawyers to take another bar examination under its supervision, it would be an intrusion into the powers and jurisdiction of the Supreme Court. He said that other than the bar examinations, he could not think of any other examination that can be required of PAO lawyers that would qualify them to perform their functions.

Senator Drilon noted that the observation of the Senate President would also apply to the medical profession, particularly to physicians in government hospitals who are licensed by the Professional Regulation Commission to practice medicine.

He agreed that the matter must be given a careful second look given the fact that professionals such as lawyers, doctors and engineers who have passed their respective board examinations are already given first-grade civil service eligibility and therefore qualify under civil service rules by virtue of their professions.

Senator Drilon manifested that at the proper time, he would raise the matter of the inclusion of GOCC executives in the CES, as proposed by Senate Bill No. 2671. He pointed out that the GOCC bill imposes the "Fit and Proper Rule" for chief executive officers, but under the instant bill, the chief executive officer who may already be extremely qualified under said rule cannot even be hired as president of, say, GSIS or SSS, because he has no CESO eligibility. He suggested that the matter be reviewed to avoid pitfalls, adding that he would take it upon himself to

study the same to improve the measure. He suspended his interpellation on the bill in the meantime.

#### **INTERPELLATION OF SENATOR OSMEÑA**

Senator Osmeña asked what law governs the career executive service officers (CESO) at present if Presidential Decree No. 1 had already been effectively repealed by the 1987 Constitution. Senate President Enrile replied that a new law has to be enacted which is precisely the bill under discussion.

On whether it was possible to have a matrix of the old law and the proposed law, Senate President Enrile replied in the affirmative, as he stated that under the 1987 Constitution, the Civil Service Commission (CSC) is the only body authorized to conduct examinations to qualify people to work in the civil service. He stated that even Congress cannot transcend the Constitution and grant another body the same power. He explained that to reconcile the conflict, the bill proposes to place the CESB under the CSC and to redefine and harmonize its powers with those of the CSC.

On whether the civil service laws protect a lawyer, who has been recruited by government, from being transferred, fired or placed on floating status, Senate President Enrile replied that if the government hired the lawyer to perform an executive responsibility in connection, for instance, with managing forestry assets, or health or education programs, he would be required to take an examination to fully qualify for the job; on the other hand, if he was hired to be a member of the prosecution service or be a judge, he cannot be required to acquire a CESO eligibility to be appointed to the position.

Asked if a lawyer who was hired as a legal counsel of the GOCC would be required to take the CESO examination, Senate President Enrile replied that for as long as the lawyer is performing the

functions of a lawyer and the job requires knowledge of the law, he cannot be required to take another examination to qualify for the job.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2671**

Upon motion of Senator Sotto, there being no objection, the Body suspended consideration of the bill.

#### **MANIFESTATION OF SENATOR SOTTO**

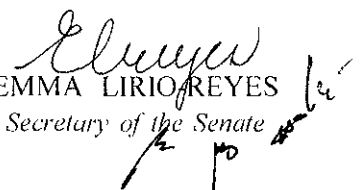
In connection with the referrals of Senate Bill No. 2618 and House Bill No. 3161 (amendments to the charter of the Philippine Public Safety College), which were interchanged in the previous day's session, Senator Sotto informed the Body that House Bill No. 3849 was the version approved by the House on Third Reading and transmitted to the Senate. He added that said bill was originally filed as House Bill No. 3161. He asked that the corresponding correction be effected.

#### **ADJOURNMENT OF SESSION**

Upon motion of Senator Sotto, there being no objection, the Senate President Pro Tempore declared the session adjourned until three o'clock in the afternoon of Monday, February 7, 2011.

*It was 4:53 p.m.*

I hereby certify to the correctness of the foregoing.

  
EMMA LIRIO REYES  
Secretary of the Senate

Approved on February 7, 2011