

THIRTEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES }  
*First Regular Session*

'04 JUN 30 P10:19

SENATE

S. No. 758

RECEIVED BY: 

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INTRODUCED BY HON. MANUEL B. VILLAR, JR.

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**EXPLANATORY NOTE**

Section 3, Article II of the Constitution provides:

*Civilian authority is, at all times, supreme over the military. The Armed forces of the Philippines is the protector of the people and the State. Its goal is to secure the sovereignty of the State and the integrity of the national territory.*


This is corollary to Section 18, Article 7 of the Constitution which states:

*The President shall be the Commander-in-chief of all armed forces of the Philippines xxx*

The fact that the President of the Philippines, who is a civilian, is the Commander-in-chief of the armed forces signifies the supremacy of civilian authority over the military. To give more life to this constitutional precept, the cabinet secretaries, as alter-egos of the Pres must also be clothed with civilian authority. The designation of a civilian cabinet secretary is important because he or she is the personification of the Constitution's mandate of civilian supremacy over the military. It is true that commissioned officers of the AFP are invested with civilian robes after relief from active duty, but their influence over the junior military officers remain despite their separation from the military service. Thus the intent of the Constitution to make civilian authority supreme is easily circumvented.

Consistent with the legal maxim that *what cannot be done directly cannot be done indirectly*, this representation proposes to amend the Administrative Code of 1987 in order to prohibit commissioned officers of a regular component of the Armed Forces of the Philippines within six years after relief from active duty from being appointed as members of the cabinet. The rationale behind the six-year prohibition is to coincide it with the term of national elective officials so that the undue appointment of retired commissioned officers in reciprocation of protection extended by the latter may be prevented.

The prompt and immediate passage of this bill deserves utmost attention.

  
MANUEL B. VILLAR, JR.  
Senator

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**AN ACT AMENDING THE ADMINISTRATIVE CODE OF 1987 PROHIBITING  
COMMISSIONED OFFICERS OF A REGULAR COMPONENT OF THE  
ARMED FORCES OF THE PHILIPPINES WITHIN SIX YEARS AFTER  
RELIEF FROM ACTIVE DUTY FROM BEING APPOINTED AS MEMBERS OF  
THE CABINET**

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

**SECTION 1. Declaration of State Policy.** -- It is hereby the policy of the State to uphold at all times the supremacy of civilian authority over the military. Therefore, it is the policy of the State to insulate the bureaucracy from military influence, which for the past three decades have caused de-stabilization to the Government.

**SEC. 2.** Section 45 of Chapter 10, Sub-Title II, title VIII, Book IV of Executive Order No. 292, otherwise known as the Administrative Code of 1987, is hereby amended by inserting a paragraph after the first paragraph thereof, to read as follows:

Section 45. Qualifications of Secretaries. -- The Secretaries shall be citizens of the Philippines and not less than twenty-five years of age.

IN ADDITION TO THE QUALIFICATIONS, NO COMMISSIONED OFFICER OF A REGULAR COMPONENT OF THE ARMED FORCES OF THE PHILIPPINES WITHIN SIX YEARS AFTER RELIEF FROM ACTIVE DUTY SHALL BE APPOINTED AS A MEMBER OF THE CABINET.

**SEC. 3. Repealing Clause.**-- All laws, decrees, executive orders, rules, and issuances inconsistent with this Act are hereby repealed, amended or modified accordingly.

**SEC. 4. Effectivity Clause.** This Act shall take effect fifteen days following its publications in the Official Gazette or in any two newspapers of general circulation.

Approved.