


14th Congress of the Republic)
of the Philippines)
Second Regular Session)

OFFICE OF THE CLERK

9 JAN 12 P 1:35

SENATE
SB **2981**

RECEIVED BY: 

Introduced by Senator Aquilino Q. Pimentel, Jr.

EXPLANATORY NOTE

The power to nominate or appoint certain high officials except members of the Judiciary is vested by the Constitution upon the President. In appropriate cases, the presidential power is subject to the authority of the Commission on Appointments to pass over it.

This power to scrutinize the validity of the presidential power to nominate or appoint and the fitness and qualifications of the nominees or appointees is now embodied in the constitutional doctrine of checks and balances. The principle ensures that the three branches of the government act within their respective boundaries ordained by the Constitution.

Article VII, Section 16 of the Constitution mandates that the Commission on Appointments give its consent to or confirm the nominations submitted to it by the President. If for any reason the Commission on Appointments fails to act on or willfully rejects the nomination or appointment concerned, the nomination or appointment is considered by-passed.

In the case of *Matibag vs. Benipayo*, (GR 149036, April 2, 2002), an ad-interim appointment that is by-passed is one that has not been finally acted upon the merits by the CA at the close of the session of Congress. There is no final decision of the CA to give or withhold its consent to the appointment as required by the Constitution. Absent such decision, the president may renew the ad-interim appointment of a by-passed appointment.

In the light of our experience, however, there is a need to limit this presidential prerogative to prevent abuse. Hence, under this legislative measure, a presidential nominee or ad-interim appointee whose appointment is by-passed twice by the Commission on Appointments shall not be re-nominated or re-appointed by the President. If for any reason such a nominee or appointee hangs on to the office to which the President might have nominated or appointed him or her, the said appointee shall not be entitled to the payment of salaries, emoluments, per diems and other benefits pertaining to the office concerned and, further, shall be subject to the penalties provided for in the Act.

Through this bill, the constitutional mandate of the Commission on Appointment to act as a check on the presidential appointing power may be realized.

In view thereof, earnest approval of this bill is requested.


AQUILINO Q. PIMENTEL, JR.

Introduced by Senator Aquilino Q. Pimentel, Jr. RECEIVED BY: 

**AN ACT
PROHIBITING THE PRESIDENTIAL RE-NOMINATION OR RE-APPOINTMENT OF A
NOMINEE OR AN APPOINTEE WHOSE NOMINATION OR APPOINTMENT HAD BEEN
TWICE BY-PASSED BY THE COMMISSION ON APPOINTMENTS, BANNING THE PAYMENT
OF SALARIES, EMOLUMENTS, PER DIEMS TO THE PERSONS CONCERNED, AND FOR
OTHER PURPOSES**

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

SECTION 1. Title. This Act shall be known as the Non-Renewal of Nominations or Appointments Act of 2008.

SECTION 2. Declaration of Policy. The power to appoint high executive officials is vested under Article – of the Constitution upon the President. The presidential power is, by mandate of Article VII, Section 16 of the Constitution, subject to the authority of the Commission on Appointments to affirm or deny validity to those presidential nominations or appointments.

SECTION 3. By-Passed Nominations and Ad-Interim Appointments. A presidential nomination or an ad-interim appointment is deemed by-passed when the Commission on Appointments fails to act upon on the merits of a nomination or an ad-interim appointment at any recess or final end of any session of Congress.

SECTION 4. Effect of By-passed Nominations or Ad-Interim Appointments. A nominee or an ad-interim appointee whose appointment is by-passed twice by the Commission on Appointments shall be barred from re-nomination or re-appointment by the President.

SECTION 5. Penalties. A nominee or appointee twice by-passed by the Commission on Appointments shall not be re-nominated or re-appointed by the President for the same office. The Executive Secretary or any member of the Cabinet and any other official working with the Office of the President who knowingly transmits the re-nomination or re-appointment papers to the re-nominee or re-appointee shall suffer the penalty of imprisonment of six months imprisonment or a fine of not more than ONE HUNDRED THOUSAND PESOS (P100,000) or both such imprisonment and fine at the discretion of the Court.

A nominee or appointee who knowingly accepts a re-nomination or re-appointment in violation of this Act shall suffer the penalty of three months imprisonment or a fine of FIFTY THOUSAND PESOS (P50,000.00) or both such imprisonment and fine at the discretion of the Court.

The nominees or the appointees concerned shall likewise not be entitled to the payment of salaries, emoluments, per diems and other benefits pertaining to the offices concerned under any guise or form whatsoever.

SECTION 6. Separability Clause. - If any provision of this Act is declared unconstitutional, any other provision not affected thereby remains in force and effect.

SECTION 7. Repealing Clause. - All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SECTION 8. Effectivity. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

APPROVED: