

MOHAMMAD ALI DIMAPORO, PETITIONER, VS. HON. RAMON V. MITRA, JR., SPEAKER, HOUSE OF REPRESENTATIVES, AND (HON. QUIRINO D. ABAD SANTOS, JR.) HON. CAMILO L. SABIO, SECRETARY, HOUSE...

G.R. No. 96859. October 15, 1991

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Petitioner Mohamed Ali Dimaporo was elected Representative for the Second Legislative District of Lanao del Sur during the 1987 congressional elections. He took his oath of office on 9 January 1987 and thereafter performed the duties and enjoyed the rights and privileges pertaining thereto.

On 15 January 1990, petitioner filed with the Commission on Elections a Certificate of Candidacy for the position of Regional Governor of the Autonomous Region in Muslim Mindanao. The election was scheduled for 17 February 1990.

Upon being informed of this development by the Commission on Elections, respondents Speaker and Secretary of the House of Representatives excluded petitioner's name from the Roll of Members of the House of Representatives pursuant to Section 67, Article IX of the Omnibus Election Code.[1] As reported by the Speaker in the session of 9 February 1990:[2]

"The Order of Business today carries a communication from the Commission on Elections which states that the Honorable Mohammad Ali Dimaporo of the Second District of Lanao del Sur filed a certificate of candidacy for the regional elections in Muslim Mindanao on February 17, 1990. The House Secretariat, performing an administrative act, did not include the name of the Honorable Ali Dimaporo in the Rolls pursuant to the provision of the Election Code, Article IX, Section 67, which states: 'Any elective official whether national or local running for any office other than the one which he is holding in a permanent capacity except for President and Vice-President shall be considered ipso facto resigned from his office upon the filing of his certificate of candidacy.' The word 'ipso facto' is defined in Words and Phrases as by the very act itself — by the mere act. And therefore, by the very act of the (sic) filing his certificate of candidacy, the Honorable Ali Dimaporo removed himself from the Rolls of the House of Representatives; and, therefore, his name has not been carried in today's Roll and will not be carried in the future Rolls of the House. x x x"

Having lost in the autonomous region elections, petitioner, in a letter dated 28 June 1990 and addressed to respondent Speaker, expressed his intention "to resume performing my duties and functions as elected Member of Congress." [3] The record does not indicate what action was taken on this communication, but it is apparent that petitioner failed in his bid to regain his seat in Congress since this petition praying for such relief was subsequently filed on 31 January 1991.

In this petition, it is alleged that following the dropping of his name from the Roll, petitioner was excluded from all proceedings of the House of Representatives; he was not paid the emoluments due his office; his staff was

dismissed and disbanded; and his office suites were occupied by other persons. In effect, he was virtually barred and excluded from performing his duties and from exercising his rights and privileges as the duly elected and qualified congressman from his district.

Petitioner admits that he filed a Certificate of Candidacy for the position of Regional Governor of Muslim Mindanao. He, however, maintains that he did not thereby lose his seat as congressman because Section 67, Article IX of B.P. Blg. 881 is not operative under the present Constitution, being contrary thereto, and therefore not applicable to the present members of Congress.

In support of his contention, petitioner points out that the term of office of members of the House of Representatives, as well as the grounds by which the incumbency of said members may be shortened, are provided for in the Constitution. Section 2, Article XVIII thereof provides that "the Senators, Members of the House of Representatives and the local officials first elected under this Constitution shall serve until noon of June 30, 1992;" while Section 7, Article VI states: "The Members of the House of Representatives shall be elected for a term of three years which shall begin, unless otherwise provided by law, at noon on the thirtieth day of June next following their election." On the other hand, the grounds by which such term may be shortened may be summarized as follows:

- "a) Section 13, Article VI: Forfeiture of his seat by holding any other office or employment in the government or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations or subsidiaries;
- b) Section 16 (3): Expulsion as a disciplinary action for disorderly behavior;
- c) Section 17: Disqualification as determined by resolution of the Electoral Tribunal in an election contest; and,
- d) Section 7, par. 2: Voluntary renunciation of office."

He asserts that under the rule *expressio unius est exclusio alterius*, Section 67, Article IX of B.P. Blg. 881 is repugnant to these constitutional provisions in that it provides for the shortening of a congressman's term of office on a ground not provided for in the Constitution. For if it were the intention of the framers to include the provisions of Section 67, Article IX of B.P. Blg. 881 as among the means by which the term of a Congressman may be shortened, it would have been a very simple matter to incorporate it in the present Constitution. They did not do so. On the contrary, the Constitutional Commission only reaffirmed the grounds previously found in the 1935 and 1973 Constitutions and deliberately omitted the ground provided in Section 67, Article IX of B.P. Blg. 881.

On the premise that the provision of law relied upon by respondents in excluding him from the Roll of Members is contrary to the present Constitution, petitioner consequently concludes that respondents acted without authority. He further maintains that respondents' so-called "administrative act" of striking out his name is ineffective in terminating his term as Congressman. Neither can it be justified as an interpretation of the Constitutional provision on voluntary renunciation of office as only the courts may interpret laws. Moreover, he claims that he cannot be said to have forfeited his seat as it is only when a congressman holds another office or employment that forfeiture is decreed. Filing a certificate of candidacy is not equivalent to holding another office or employment.

In sum, petitioner's demand that his rights as a duly elected member of the House of Representatives be recognized, is anchored on the negative view of the following issues raised in this petition:[4]

"A.

IS SECTION 67, ARTICLE IX, OF B.P. BLG. 881 OPERATIVE UNDER THE PRESENT CONSTITUTION?

B.

COULD THE RESPONDENT SPEAKER AND/OR THE RESPONDENT SECRETARY, 'BY ADMINISTRATIVE ACT', EXCLUDE THE PETITIONER FROM THE ROLLS OF THE HOUSE OF REPRESENTATIVES, THEREBY PREVENTING HIM FROM EXERCISING HIS FUNCTIONS AS CONGRESSMAN, AND DEPRIVING HIM OF HIS RIGHTS AND PRIVILEGES AS SUCH?"

On the other hand, respondents through the Office of the Solicitor General contend that Section 67, Article IX of B.P. Blg. 881 is still operative under the present Constitution, as the voluntary act of resignation contemplated in said Section 67 falls within the term "voluntary renunciation" of office enunciated in par. 2, Section 7, Article VI of the Constitution. That the ground provided in Section 67 is not included in the Constitution does not affect its validity as the grounds mentioned therein are not exclusive. There are, in addition, other modes of shortening the tenure of office of Members of Congress, among which are resignation, death and conviction of a crime which carries a penalty of disqualification to hold public office.

Respondents assert that petitioner's filing of a Certificate of Candidacy is an act of resignation which estops him from claiming otherwise as he is presumed to be aware of existing laws. They further maintain that their questioned "administrative act" is a mere ministerial act which did not involve any encroachment on judicial powers.

Section 67, Article IX of B.P. Blg. 881 reads:

"Any elective official whether national or local running for any office other than the one which he is holding in a permanent capacity except for President and Vice-President shall be considered ipso facto resigned from his office upon the filing of his certificate of candidacy."

The precursor of this provision is the last paragraph of Section 2 of C.A. No. 666,[5] which reads:

"Any elective provincial, municipal, or city official running for an office, other than the one for which he has been lastly elected, shall be considered resigned from his office from the moment of the filing of his certificate of candidacy."

Section 27 of Article II of Republic Act No. 180 reiterated this rule in this wise:[6]

"Sec. 27. Candidate holding office. — Any elective provincial, municipal or city official running for an office, other than the one which he is actually holding, shall be considered resigned from office from the moment of the filing of his certificate of candidacy."

The 1971 Election Code imposed a similar proviso on local elective officials as follows:[7]

"Sec. 24. Candidate holding elective office. — Any elective provincial, sub-provincial, city, municipal or municipal district officer running for an office other than the one which he is holding in a permanent capacity shall be considered ipso facto resigned from his office from the moment of the filing of his certificate of candidacy.

Every elected official shall take his oath of office on the day his term of office commences, or within ten days after his proclamation if said proclamation takes place after such day. His failure to take his oath of office as herein provided shall be considered forfeiture of his right to the new office to which he has been elected unless his failure is for a cause or causes beyond his control."

The 1978 Election Code[8] provided a different rule, thus:

"Sec. 30. Candidates holding political offices. — Governors, mayors, members of various sanggunians, or barangay officials, shall, upon filing of a certificate of candidacy, be considered on forced leave of absence from office."

It must be noted that only in B.P. Blg. 881 are members of the legislature included in the enumeration of elective public officials who are to be considered resigned from office from the moment of the filing of their certificates of candidacy for another office, except for President and Vice-President. The advocates of Cabinet Bill No. 2 (now Section 67, Article IX of B.P. Blg. 881) elucidated on the rationale of this inclusion, thus:[9].

"MR. PALMARES:

In the old Election Code, Your Honor, in the 1971 Election Code, the provision seems to be different — I think this is in Section 24 of Article III.

Any elective provincial, sub-provincial, city, municipal or municipal district officer running for an office other than the one which he is holding in a permanent capacity shall be considered ipso facto resigned from his office from the moment of the filing of his certificate of candidacy.

May I know, Your Honor, what is the reason of the Committee in departing or changing these provisions of Section 24 of the old Election Code and just adopting it en toto? Why do we have to change it? What could possibly be the reason behind it, or the rationale behind it?

MR. PEREZ (L.):

I have already stated the rationale for this, Mr. Speaker, but I don't mind repeating it. The purpose is that the people must be given the right to choose any official who belongs to, let us say, to the Batasan if he wants to run for another office. However, because of the practice in the past where members of the legislature ran for local offices, but did not assume the office, because of that spectacle the impression is that these officials were just trifling with the mandate of the people. They have already obtained a mandate to be a member of the legislature, and they want to run for mayor or for governor and yet when the people give them that mandate, they do not comply with that latter mandate, but still preferred (sic) to remain in the earlier mandate. So we believe, Mr. Speaker, that the people's latest mandate must be the one that will be given due course. x x x"

Assemblyman Manuel M. Garcia, in answer to the query of Assemblyman Arturo Tolentino on the constitutionality of Cabinet Bill No. 2, said:[10]

"MR. GARCIA (M.M.):

Thank you, Mr. Speaker.

Mr. Speaker, on the part of the Committee, we made this proposal based on constitutional grounds. We did not propose this amendment mainly on the rationale as stated by the Gentlemen from Manila that the officials running for office other than the ones they are holding will be considered resigned not because of abuse of facilities of power or the use of office facilities but primarily because under our Constitution, we have this new chapter on accountability of public officers. Now, this was not in the 1935 Constitution. It states that (sic) Article XIII, Section 1 – 'Public office is a public trust. Public officers and employees shall serve with the highest degree of responsibility, integrity, loyalty and efficiency and shall remain accountable to the people.'

Now, what is the significance of this new provision on accountability of public officers? This only means that all elective public officials should honor the mandate they have gotten from the people. Thus, under our Constitution, it says that: 'Members of the Batasan shall serve for the term of 6 years, in the case of local officials and 6 years in the case of barangay officials. Now, Mr. Speaker, we have precisely included this as part of the Omnibus Election Code because a Batasan Member who hold (sic) himself out with the people and seek (sic) their support and mandate should not be allowed to deviate or allow himself to run for any other position unless he relinquishes or abandons his office. Because his mandate to the people is to serve for 6 years. Now, if you allow a Batasan or a governor or a mayor who was mandated to serve for 6 years to file for an office other than the one he was elected to, then, that clearly shows that he has not (sic) intention to service the mandate of the people which was placed upon him and therefore he should be considered ipso facto resigned. I think more than anything that is the accountability that the Constitution requires of elective public officials. It is not because of the use or abuse of powers or facilities of his office, but it is because of the Constitution itself which I said under the 1973 Constitution called and inserted this new chapter on accountability.

Now, argument was said that the mere filing is not the intention to run. Now, what is it for? If a Batasan Member files the certificate of candidacy, that means that he does not want to serve, otherwise, why should he file for an office other than the one he was elected to? The mere fact therefore of filing a certificate should be considered the overt act of abandoning or relinquishing his mandate to the people and that he should therefore resign if he wants to seek another position which he feels he could be of better service.

As I said, Mr. Speaker, I disagree with the statements of the Gentleman from Manila because the basis of this Section 62 is the constitutional provision not only of the fact that Members of the Batasan and local officials should serve the entire 6-year term for which we were elected, but because of this new chapter on the accountability of public officers not only to the community which voted him to office, but primarily because under this commentary on accountability of public officers, the elective public officers must serve their principal, the people, not their own personal ambition. And that is the reason, Mr. Speaker, why we opted to propose Section 62 where candidates or elective public officers holding offices other than the one to which they were elected, should be considered ipso facto resigned from their office upon the filing of the certificate

of candidacy."

It cannot be gainsaid that the same constitutional basis for Section 67, Article IX of B.P. Blg. 881 remains written in the 1987 Constitution. In fact, Section 1 of Article XI on "Accountability of Public Officers" is more emphatic^[11] in stating:

"Sec. 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives."

Obviously then, petitioner's assumption that the questioned statutory provision is no longer operative does not hold water. He failed to discern that rather than cut short the term of office of elective public officials, this statutory provision seeks to ensure that such officials serve out their entire term of office by discouraging them from running for another public office and thereby cutting short their tenure by making it clear that should they fail in their candidacy, they cannot go back to their former position. This is consonant with the constitutional edict that all public officials must serve the people with utmost loyalty and not trifle with the mandate which they have received from their constituents.

In theorizing that the provision under consideration cuts short the term of office of a Member of Congress, petitioner seems to confuse "term" with "tenure" of office. As succinctly distinguished by the Solicitor General:^[12]

"The term of office prescribed by the Constitution may not be extended or shortened by the legislature (22 R.C.L.), but the period during which an officer actually holds the office (tenure) may be affected by circumstances within or beyond the power of said officer. Tenure may be shorter than the term or it may not exist at all. These situations will not change the duration of the term of office (see *Topacio Nueno vs. Angeles*, 76 Phil 12)."

Under the questioned provision, when an elective official covered thereby files a certificate of candidacy for another office, he is deemed to have voluntarily cut short his tenure, not his term. The term remains and his successor, if any, is allowed to serve its unexpired portion.

That the ground cited in Section 67, Article IX of B.P. Blg. 881 is not mentioned in the Constitution itself as a mode of shortening the tenure of office of members of Congress, does not preclude its application to present members of Congress. Section 2 of Article XI provides that "(t)he President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office, on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. All other public officers and employees may be removed from office as provided by law, but not by impeachment.^[13] Such constitutional expression clearly recognizes that the four (4) grounds found in Article VI of the Constitution by which the tenure of a Congressman may be shortened are not exclusive. As held in the case of *State ex rel. Berge vs. Lansing*,^[14] the expression in the constitution of the circumstances which shall bring about a vacancy does not necessarily exclude all others. Neither does it preclude the legislature from prescribing other grounds.^[15] Events so enumerated in the constitution or statutes are merely conditions the occurrence of any one of which the office shall become vacant^[16] not as a penalty but simply as the legal effect of any one of the events. And would it not be preposterous to say that a congressman cannot die and cut his tenure because death is not one of the grounds provided for in the Constitution? The framers of our fundamental law never intended such absurdity.

The basic principle which underlies the entire field of legal concepts pertaining to the validity of legislation is that by enactment of legislation, a constitutional measure is presumed to be created.^[17] This Court has enunciated the

presumption in favor of constitutionality of legislative enactment. To justify the nullification of a law, there must be a clear and unequivocal breach of the Constitution, not a doubtful and argumentative implication. A doubt, even if well-founded, does not suffice.[18]

The maxim *expressio unius est exclusio alterius* is not to be applied with the same rigor in construing a constitution as a statute and only those things expressed in such positive affirmative terms as plainly imply the negative of what is not mentioned will be considered as inhibiting the power of legislature.[19] The maxim is only a rule of interpretation and not a constitutional command.[20] This maxim expresses a rule of construction and serves only as an aid in discovering legislative intent where such intent is not otherwise manifest.[21]

Even then, the concept of voluntary renunciation of office under Section 7, Article VI of the Constitution is broad enough to include the situation envisioned in Section 67, Article IX of B.P. Blg. 881. As discussed by the Constitutional Commissioners:[22]

"MR. MAAMBONG:

Could I address the clarificatory question to the Committee? The term 'voluntary renunciation' does not only appear in Section 3; it appears in Section 6.

MR. DAVIDE:

Yes.

MR. MAAMBONG:

It is also a recurring phrase all over the constitution. Could the Committee please enlighten us exactly what 'voluntary renunciation' means? Is this akin to abandonment?

MR. DAVIDE:

Abandonment is voluntary. In other words, he cannot circumvent the restriction by merely resigning at any given time on the second term.

MR. MAAMBONG:

Is the Committee saying that the term voluntary renunciation is more general than abandonment and resignation?

MR. DAVIDE:

It is more general, more embracing."

That the act, contemplated in Section 67, Article IX of B.P. Blg. 881, of filing a certificate of candidacy for another office constitutes an overt, concrete act of voluntary renunciation of the elective office presently being held is evident from this exchange between then Members of Parliament Arturo Tolentino and Jose Rono:[23]

"MR. RONO:

My reasonable ground is this: if you will make the person ... my, shall we say, basis is that in one case the person is intending to run for an office which is different from his own, and therefore it should be considered, at least from the legal significance, an intention to relinquish his office.

MR. TOLENTINO:

Yes . . .

MR. RONO:

And in the other, because he is running for the same position, it is otherwise.

MR. TOLENTINO:

Yes, but what I cannot see is why are you going to compel a person to quit an office which he is only intending to leave? A relinquishment of office must be clear, must be definite.

MR. RONO:

Yes, sir. That's precisely, Mr. Speaker, what I'm saying that while I do not disagree with the conclusion that the intention cannot be enough, but I am saying that the filing of the certificate of candidacy is an overt act of such intention. It's not just an intention: it's already there."

In *Monrov vs. Court of Appeals*,^[24] a case involving Section 27 of R.A. No. 180 above-quoted, this Court categorically pronounced that "forfeiture (is) automatic and permanently effective upon the filing of the certificate of candidacy for another office. Only the moment and act of filing are considered. Once the certificate is filed, the seat is forever forfeited and nothing save a new election or appointment can restore the ousted official. Thus, as We had occasion to remark, through Justice J.B.L. Reyes, in *Castro vs. Gatuslao*:^[25]

"x x x "The wording of the law plainly indicates that only the date of filing of the certificate of candidacy should be taken into account. The law does not make the forfeiture dependent upon future contingencies, unforeseen and unforeseeable, since the vacating is expressly made as of the moment of the filing of the certificate of candidacy. x x x"

As the mere act of filing the certificate of candidacy for another office produces automatically the permanent forfeiture of the elective position being presently held, it is not necessary, as petitioner opines, that the other position be actually held. The ground for forfeiture in Section 13, Article VI of the 1987 Constitution is different from the forfeiture decreed in Section 67, Article IX of B.P. Blg. 881, which is actually a mode of voluntary renunciation of office under Section 7, par. 2 of Article VI of the Constitution.

The legal effects of filing a certificate of candidacy for another office having been spelled out in Section 67, Article IX, B.P. Blg. 881 itself, no statutory interpretation was indulged in by respondents Speaker and Secretary of the House of Representatives in excluding petitioner's name from the Roll of Members. The Speaker is the administrative head of the House of Representatives and he exercises administrative powers and functions attached to his office.^[26] As administrative officers, both the Speaker and House Secretary-General perform ministerial functions. It was their duty to remove petitioner's name from the Roll considering the unequivocal tenor of Section 67, Article IX, B.P. Blg. 881. When the Commission on Elections communicated to the House of Representatives that petitioner had filed his certificate of candidacy for regional governor of Muslim Mindanao, respondents had no choice but to abide by the clear and unmistakable legal effect of Section 67, Article IX of B.P. Blg. 881. It was their ministerial duty to do so. These officers cannot refuse to perform their duty on the ground of an alleged invalidity of the statute imposing the duty. The reason for this is obvious. It might seriously hinder the transaction of public business if these officers were to be permitted in all cases to question the constitutionality of statutes and ordinances imposing duties upon them and which have not judicially been declared unconstitutional.^[27] Officers of the government from the highest to the lowest are creatures of the law and are bound to obey it.^[28]

In conclusion, We reiterate the basic concept that a public office is a public trust. It is created for the interest and benefit of the people. As such, the holder thereof is subject to such regulations and conditions as the law may impose and he cannot complain of any restrictions which public policy may dictate on his office.^[29]

WHEREFORE, the instant petition is DISMISSED for lack of merit.

SO ORDERED.

Narvasa, Cruz, Paras, Feliciano, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Fernan, C.J., no part – related to one of the parties.

Melencio-Herrera, J., on leave.

Gutierrez, Jr., J., please see dissent.

Padilla, J., I join Mr. Justice Gutierrez in his dissent.

Bidin, J., I join in the dissent of Justice Gutierrez Jr.

[1] Batas Pambansa Blg. 881.

[2] Annex "C" of Petition; Rollo, 24.

[3] Annex "E" of Petition; Id., 30.

[4] Rollo, 8 and 14.

[5] 22 June 1941.

[6] Emphasis supplied.

[7] Emphasis supplied.

[8] P.D. No. 1296.

[9] Records of the Batasang Pambansa, 8 October 1985. Emphasis supplied.

[10] Records of the Batasang Pambansa, 21 October 1985. Emphasis supplied.

[11] Compared to the provision in the 1973 Constitution which, reads:

"Sec. 1. Public office is a public trust. Public officers and employees shall serve with the highest degree of responsibility, integrity, loyalty, and efficiency, and shall remain accountable to the people."

[12] Memorandum for Respondents, 9.

[13] Italics supplied.

[14] 46 Neb. 514, 64 NW 1104.

[15] McKittrick vs. Wilson, 350 M 486, 166 SW2d 499, 143 ALR 465.

[16] People ex rel. Fleming vs. Shorb, 100 Cal 537 P. 163.

[17] 16 Am Jur. 2d, p. 63.

[18] People vs. Dacuycuy, 173 SCRA 90; Peralta vs. COMELEC, 82 SCRA 30; Paredes, et al. vs. Executive Secretary, 128 SCRA 6.

[19] State ex rel. Atty. Gen. vs. Martin, 60 Ark. 343, 30 SW 421.

[20] State vs. Driscoll, 54 P. 2d 571, 576, 101 Mont. 348.

[21] Garrison vs. City of Shreveport, 154 So. 622, 624, 179 La. 605.

[22] Records of the Constitutional Commission, Vol. 2, p. 591, 19 July to 6 August 1986.

[23] Records of the Batasang Pambansa, 21 October 1985, Emphasis supplied.

[24] L-23258, 1 July 1967, 20 SCRA 620, 625.

[25] 98 Phil. 94, 196.

[26] Section 8, Rule III, Rules of the House of Representatives.

[27] *Cu Unjieng vs. Patstone*, 42 Phil 818.

[28] *Burton vs. U.S.*, 202 U.S. 344.

[29] 42 Am Jur 926.

DISSENTING OPINION

GUTIERREZ, JR., J.:

I am constrained to dissent from the majority opinion.

I believe that the Speaker and the Secretary of the House of Representatives have no power, in purported implementation of an invalid statute, to erase from the Rolls of the House the name of a member duly elected by his sovereign constituents to represent them in Congress.

The rejection of the bid of the Honorable Mohammad Ali Dimaporo to retain his seat in Congress may appear logical, politically palatable, and salutary to certain quarters. But I submit that it is in cases like the present petition where the Court should be vigilant in preventing the erosion of fundamental concepts of the Constitution. We must be particularly attentive to violations which are cloaked in political respectability, seemingly defensible or arguably beneficial and attractive in the short run.

It is a fundamental principle in Constitutional Law that Congress cannot add by statute or administrative act to the causes for disqualification or removal of constitutional officers. Neither can Congress provide a different procedure for disciplining constitutional officers other than those provided in the Constitution. This is as true for the President and the members of this Court as it is for members of Congress itself. The causes and procedures for removal found in the Constitution are not mere disciplinary measures. They are intended to protect constitutional officers in the unhampered and independent discharge of their functions. It is for this reason that the Court should insure that what the Constitution provides must be followed.

The Constitution provides how the tenure of members of Congress may be shortened:

"A. Forfeiture of his seat by holding any other office or employment in the government or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or subsidiaries (Art. VI, Section 13);

B. Expulsion as a disciplinary action for disorderly behavior (Art. VI, Sec. 16[3]);

C. Disqualification as determined by resolution of the Electoral Tribunal in an election contest (Art. VI, Sec. 17);

D. Voluntary renunciation of office (Art. VI, Sec. 7, par. 2)." (See Petition, p. 8)

The respondents would now add to the above provisions, an enactment of the defunct Batasang Pambansa promulgated long before the present Constitution took effect. B.P. Blg. 881, Article IX, Section 67 provides:

"Any elective official whether national or local running for any office other than the one which he is holding in a permanent capacity except for President and Vice-President shall be considered ipso facto resigned from his

office upon the filing of his certificate of candidacy." (Petition, p. 8)

I take exception to the Solicitor General's stand that the grounds for removal mentioned in the Constitution are not exclusive. They are exclusive. The non-inclusion of physical causes like death, being permanently comatose on a hospital bed, or disappearance in the sinking of a ship does not justify in the slightest an act of Congress expelling one of its members for reasons other than those found in the Constitution. Resignation is provided for by the Constitution. It is voluntary renunciation. So is naturalization in a foreign country or express renunciation of Philippine citizenship. Conviction of a crime carrying a penalty of disqualification is a disqualification against running for public office. Whether or not the conviction for such a crime while the Congressman is in office may be a ground to expel him from Congress is a matter which we cannot decide obiter. We must await the proper case and controversy. My point is — Congress cannot by statute or disciplinary action add to the causes for disqualification or removal of its members. Only the Constitution can do it.

The citation of the precursors of B.P. 881 - namely, Section 2 of Commonwealth Act No. 665, Section 27 of Article II of Rep. Act No. 180, the 1971 Election Code, and the 1978 Election Code — does not help the respondents. On the contrary, they strengthen the case of the petitioner.

It may be noted that all the earlier statutes about elective officials being considered resigned upon the filing of a certificate of candidacy refer to non-constitutional officers. Congress has not only the power but also the duty to prescribe causes for the removal of provincial, city, and municipal officials. It has no such power when it comes to constitutional officers.

It was not alone egoistic self-interest which led the legislature during Commonwealth days or Congress in the pre-martial law period to exclude their members from the rule that the filing of a certificate of candidacy for another office meant resignation from one's current position. It was also a recognition that such a provision could not be validly enacted by statute. It has to be in the constitution.

Does running for another elective office constitute voluntary renunciation of one's public office? In other words, did the Speaker and the House Secretary correctly interpret the meaning of "voluntary renunciation" as found in the Constitution?

From 1935 when the Constitution was promulgated up to 1985 when B.P. 881 was enacted or for fifty long years, the filing of a certificate of candidacy by a Senator or member of the House was not voluntary renunciation of his seat in Congress. I see no reason why the passage of a statute by the Batasang Pambansa should suddenly change the meaning and implications of the act of filing and equate it with voluntary renunciation. "Voluntary" refers to a state of the mind and in the context of constitutional requirements should not be treated lightly. It is true that intentions may be deduced from a person's acts. I must stress, however, that for fifty years of our constitutional history, running for a local government position was not considered a voluntary renunciation. Congressman Dimaporo is steeped in the traditions of earlier years. He has been engaged in politics even before some of his present colleagues in Congress were born. Neither the respondents nor this Court can state that he intended to renounce his seat in Congress when he decided to run for Regional Governor. I submit that we should not deny to him the privilege of an existing interpretation of "voluntary renunciation" and wrongly substitute the interpretation adopted by the respondents.

In interpreting the meaning of voluntary renunciation, the Court should also be guided by the principle that all presumptions should be in favor of representation.

As aptly stated by the petitioner:

"We should not lose sight of the fact that what we are dealing with here is not the mere right of the petitioner to

sit in the House of Representatives, but more important, we are dealing with the political right of the people of the Second Legislative District of Lanao del Sur to representation in Congress, as against their disenfranchisement by mere 'administrative act' of the respondents.

Such being the case, all presumptions should be strictly in favor of representation and strictly against disenfranchisement.

And if disenfranchisement should there be, the same should only be by due process of law, both substantive and procedural, and not by mere arbitrary, capricious, and ultra vires, 'administrative act' of the respondents." (Reply to Comment, p. 5)

The invocation of the principle of accountability found in Article XI of the Constitution does not empower the legislature to add to the grounds for dismissing its members. When Congressman Dimaporo ran for Regional Governor, he was not trifling with the mandate of his people. He wanted to serve a greater number in an autonomous, more direct, and intimate manner. He claims (a mistaken claim according to the Commission on Elections sustained by this Court) that he was cheated of victory during the elections for regional officers. He wants to continue serving his people. I fail to see how the principle of accountability and faithfulness to a trust could be applied to this specific cause of Congressman Dimaporo.

For the foregoing reasons, I VOTE to GRANT the petition.

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