

**DR. EMIGDIO A. BONDOC, PETITIONER, VS. REPRESENTATIVES
MARCIANO M. PINEDA, MAGDALENO M. PALACOL, COL. JUANITO G.
CAMASURA, JR., OR ANY OTHER REPRESENTATIVE WHO MAY BE
APPOINTED ...**

G.R. No. 97710. September 26, 1991

Ponente: GRINO-AQUINO. J.

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GRINO-AQUINO. J.

This case involves a question of power. May the House of Representatives, at the request of the dominant political party therein, change that party's representation in the House Electoral Tribunal to thwart the promulgation of a decision freely reached by the tribunal in an election contest pending therein? May the Supreme Court review and annul that action of the House?

Even the Supreme Court of the United States over a century ago, in *Marbury vs. Madison*, 2 L. ed. 60(1803), had hesitated to embark upon a legal investigation of the acts of the other two branches of the Government, finding it "peculiarly irksome as well as delicate" because it could be considered by some as "an attempt to intrude" into the affairs of the other two and to intermeddle with their prerogatives.

In the past, the Supreme Court, as head of the third and weakest branch of our Government, was all too willing to avoid a political confrontation with the other two branches by burying its head ostrich-like in the sands of the "political question" doctrine, the accepted meaning of which is that "where the matter involved is left to a decision by the people acting in their sovereign capacity or to the sole determination by either or both the legislative or executive branch of the government, it is beyond judicial cognizance. Thus it was that in suits where the party proceeded against was either the President or Congress, or any of its branches for that matter, the courts refused to act." (*Aquino vs. Ponce Enrile*, 59 SCRA 183, 196.)

In time, however, the duty of the courts to look into the constitutionality and validity of legislative or executive action, especially when private rights are affected, came to be recognized. As we pointed out in the celebrated *Aquino* case, a showing that plenary power is granted either department of government may not be an obstacle to judicial inquiry, for the improvident exercise or the abuse thereof may give rise to a justiciable controversy. Since "a constitutional grant of authority is not usually unrestricted, limitations being provided for as to what may be done and how it is to be accomplished, necessarily then, it becomes the responsibility of the courts to ascertain whether the two coordinate branches have adhered to the mandate of the fundamental law. The question thus posed is judicial rather than political. The duty remains to assure that the supremacy of the Constitution is upheld" (*Aquino vs. Ponce Enrile*, 59 SCRA 183, 196).

That duty is a part of the judicial power vested in the courts by an express grant under Section I, Article VIII of the 1987 Constitution of the Philippines which defines judicial power as both authority and duty of the courts "to settle actual controversies involving rights which are legally demandable and enforceable, and to determine

whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."

The power and duty of the courts to nullify, in appropriate cases, the actions of the executive and legislative branches of the Government, does not mean that the courts are superior to the President and the Legislature. It does mean though that the judiciary may not shirk "the irksome task" of inquiring into the constitutionality and legality of legislative or executive action when a justiciable controversy is brought before the courts by someone who has been aggrieved or prejudiced by such action, as in this case. It is —

"a plain exercise of the judicial power, that power vested in courts to enable them to administer justice according to law. x x x It is simply a necessary concomitant of the power to hear and dispose of a case or controversy properly before the court, to the determination of which must be brought the test and measure of the law." (Vera vs. Avelino, 77 Phil. 192, 203.)

In the local and congressional elections held on May 11, 1987, Marciano M. Pineda of the Laban ng Demokratikong Pilipino (LDP) and Dr. Emigdio A. Bondoc of the Nacionalista Party (NP) were rival candidates for the position of Representative for the Fourth District of the province of Pampanga. Each received the following votes in the canvass made by the Provincial Board of Canvassers of Pampanga:

Marciano M. Pineda 31,700 votes

Emigdio A. Bondoc 28,400 votes

Difference 3,300 votes

On May 19, 1987, Pineda was proclaimed winner in the election. In due time, Bondoc filed a protest (HRET Case No. 25) in the House of Representatives Electoral Tribunal (HRET for short) which is composed of nine (9) members, three of whom are Justices of the Supreme Court and the remaining six are members of the House of Representatives chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein (Sec. 17, Art. VI, 1987 Constitution) as follows:

AMEURFINA M. HERRERA

Associate Justice

Supreme Court

Chairman

ISAGANI A. CRUZ

Associate Justice

Supreme Court

Member

FLORENTINO P. FELICIANO

Associate Justice

Supreme Court

Member

HONORATO Y. AQUINO

Congressman

1st Dist., Benguet

LDP

Member

DAVID A. PONCE DE LEON

Congressman

1st Dist., Palawan

LDP

Member

SIMEON E. GARCIA, JR.

Congressman

2nd Dist., Nueva Ecija

LDP

Member

JUANITO G. CAMASURA, JR.

Congressman

1st Dist., Davao del Sur

LDP

Member

JOSE E. CALINGASAN

Congressman

4th Dist., Batangas

LDP

Member

ANTONIO H. CERILLES

Congressman

2nd Dist., Zamboanga del Sur

(formerly GAD, now NP)

Member

After the revision of the ballots, the presentation of evidence, and submission of memoranda, Bondoc's protest was submitted for decision in July, 1989.

By October 1990, a decision had been reached in which Bondoc won over Pineda by a margin of twenty-three (23) votes. At that point, the LDP members in the Tribunal insisted on a re-appreciation and recount of the ballots

cast in some precincts, thereby delaying by at least four (4) months the finalization of the decision in the case.

The reexamination and re-appreciation of the ballots resulted in increasing Bondoc's lead over Pineda to 107 votes. Congressman Camasura voted with the Supreme Court Justices and Congressman Cerilles to proclaim Bondoc the winner of the contest.

Moved by candor and honesty, Congressman Camasura revealed on March 4, 1991, to his "Chief," Congressman Jose S. Cojuangco, Jr., LDP Secretary General, not only the final tally in the Bondoc case but also that he voted for Bondoc "consistent with truth and justice and self-respect," and to honor a "gentlemen's agreement" among the members of the HRET that they would "abide by the result of the appreciation of the contested ballot[1] Congressman Camasura's revelation stirred a hornets' nest in the LDP which went into a flurry of plotting appropriate moves to neutralize the pro-Bondoc majority in the Tribunal.

On March 5, 1991, the HRET issued a Notice of Promulgation of Decision on March 14, 1991 at 2:30 P.M. in HRET Case No. 25. A copy of the notice was received by Bondoc's counsel on March 6, 1991.

On March 13, 1991, the eve of the promulgation of the Bondoc decision, Congressman Cojuangco informed Congressman Camasura by letter[2] that on February 28, 1991 yet, the LDP Davao del Sur Chapter at Digos, Davao del Sur, by Resolution No. 03-91, had already expelled him and Congressman Benjamin Bautista from the LDP for having allegedly helped to organize the Partido Pilipino of Eduardo "Danding" Cojuangco, and for allegedly having invited LDP members in Davao del Sur to join said political party; and that as those acts are "not only inimical, uncalled for, unethical and immoral, but also a complete betrayal to (sic) the cause and objectives, and loyalty to LDP," in a meeting on March 12, 1991, the LDP Executive Committee-unanimously confirmed the expulsions.[3]

At the same time, Congressman Cojuangco notified Speaker Ramon V. Mitra about the ouster of the two congressmen from the LDP, and asked the House of Representatives, through the Speaker, to take note of it "especially in matters where party membership is a prerequisite."[4]

At 9:45 in the morning of March 4, 1991, the Chairman of the Tribunal, Mine. Justice Ameurfina M. Herrera, received the following letter dated March 13, 1991, from the Office of the Secretary General of the House of Representatives, informing the Tribunal that on the basis of the letter from the LDP, the House of Representatives, during its plenary session on March 13, 1991, decided to withdraw the nomination and rescind the election of Congressman Camasura, Jr. to the House of Electoral Tribunal. The letter reads as follows:

"13 March 1991

"Honorable Justice Ameurfina

Melencio-Herrera

Chairman

House of Representatives

Electoral Tribunal

Constitution Hills Quezon City

"Dear Honorable Justice Melencio-Herrera:

"I have the honor to notify the House of Electoral Tribunal of the decision of the House of Representatives during its plenary session on 13 March 1991, to withdraw the nomination and to rescind the election of the Honorable Juanito G. Camasura, Jr. to the House Electoral Tribunal on the basis of an LDP communication which is self-explanatory and copies of which are hereto attached.

"Thank you.

"For the Secretary-General

"(SGD.) Josefina D. Azarcon

"Officer-in-charge
Operations Department"

(p. 10, Rollo.)

Justices Herrera, Cruz, and Feliciano promptly apprised the Chief Justice and Associate Justices of the Supreme Court in writing, of this "distressing development" and asked to be relieved from their assignments in the HRET because —

"By the above action (of the House) the promulgation of the decision of the Tribunal in the electoral protest entitled "Bondoc v. Pineda" (HRET Case No. 25), previously scheduled for 14 March 1991, is sought to be aborted (See the Consolidated Bank and Trust Corporation v. Hon. Intermediate Appellate Court, G.R. Nos. 73777-78, promulgated 12 September 1990). Even if there were no legal impediment to its promulgation, the decision which was reached on a 5 to 4 vote may now be confidently expected to be overturned on a motion for reconsideration by the party-litigant which would have been defeated.

"The decision in Bondoc v. Pineda was ready as early as October 1990 with a margin of 23 votes in favor of protestant Bondoc. Because some members of the Tribunal requested re-appreciation of some ballots, the finalization of the decision had to be deferred by at least 4 months.

With the re-appreciation completed, the decision, now with a margin of 107 votes in favor of protestant Bondoc, and concurred in by Justices Ameurфина A. Melencio-Herrera, Isagani A. Cruz and Florentino P. Feliciano, and Congressmen Juanito G. Camasura and Antonio H. Cerilles, is set for promulgation on 14 March 1991, with Congressmen Honorato Y. Aquino, David A. Ponce de Leon, Simeon E. Garcia, Jr. and Jose E. Calingasan, dissenting.

"Congressman Camasura's vote in the Bondoc v. Pineda case was, in our view, a conscience vote, for which he earned the respect of the Tribunal but also the loss of the confidence of the leadership of his party.

"Under the above circumstances, an untenable situation has come about. It is extremely difficult to continue with membership in the Tribunal and for the Tribunal to preserve its integrity and credibility as a constitutional body charged with a judicial task. It is clear to us that the unseating of an incumbent member of Congress is being prevented at all costs. We believe that the Tribunal should not be hampered in the performance of its constitutional function by factors which have nothing to do with the merits of the cases before it.

"In this connection, our own experience teaches that the provision for proportional representation in the Tribunal found in Article VI, Section 17 of the 1987 Constitution, should be amended to provide instead for a return to the composition mandated in the 1935 Constitution, that is: three (3) members chosen by the House or Senate upon nomination of the party having the largest number of votes and three (3) of the party having the second largest number of votes: and a judicial component consisting of three (3) justices from the Supreme Court. Thereby, no party or coalition of parties can dominate the legislative component in the Tribunal.

"In the alternative, the Senate Electoral Tribunal could perhaps sit as the sole judge of all contests relating to the election, returns and qualifications of members of the House of Representatives. Similarly, the House of Representatives Electoral Tribunal could sit as the sole judge of all such contests involving members of the Senate. In this way, there should be lesser chances of non-judicial elements playing a decisive role in the resolution of election contests.

"We suggest that there should also be a provision in the Constitution that upon designation to membership in the Electoral Tribunal, those so designated should divest themselves of affiliation with their respective political parties, to insure their independence and objectivity as they sit in Tribunal deliberations.

"There are only three (3) remaining cases for decision by the Tribunal. Bondoc should have been promulgated today, 14 March 1991. Cabrera v. Apacible (HRET Case No. 21) is scheduled for promulgation on 31 March 1991 and Lucman v. Dimaporo (HRET Case No. 45), after the Holy Week recess.

"But political factors are blocking the accomplishment of the constitutionally mandated task of the Tribunal well ahead of the completion of the present congressional term.

"Under these circumstances, we are compelled to ask to be relieved from the chairmanship and membership in the Tribunal.

"x x x x x x x x."

At the open session of the HRET in the afternoon of the same day, the Tribunal issued Resolution No. 91-0018 cancelling the promulgation of the decision in HRET Case No. 25. The resolution reads:

"In view of the formal notice the Tribunal has received at 9:45 this morning from the House of Representatives that at its plenary session held on March 13, 1991, it had voted to withdraw the nomination and rescind the election of Congressman Camasura to the House of Representatives Electoral Tribunal,' the Tribunal Resolved to cancel the promulgation of its Decision in Bondoc vs. Pineda (HRET Case No. 25) scheduled for this afternoon. This is because, without Congressman Camasura's vote, the decision lacks the concurrence of five members as required by Section 24 of the Rules of the Tribunal and, therefore, cannot be validly promulgated.

"The Tribunal noted that the three (3) Justices-members of the Supreme Court, being of the opinion that this development undermines the independence of the Tribunal and derails the orderly adjudication of electoral cases, they have asked the Chief Justice, in a letter of even date, for their relief from membership in the Tribunal.

"The Tribunal further Noted that Congressman Cerilles also manifested his intention to resign as a member of the Tribunal.

"The Tribunal further Noted that Congressmen Aquino, Ponce de Leon, Garcia, Jr., and Calingasan also manifested a similar intention." (p. 37, Rollo.)

On March 19, 1991, this Court, after deliberating on the request for relief of Justices Herrera, Cruz and Feliciano, resolved to direct them to return to their duties in the Tribunal. The Court observed that:

"x x x in view of the sensitive constitutional functions of the Electoral Tribunals as the 'sole judge' of all contests relating to the election, returns and qualifications of the members of Congress, all members of these bodies are appropriately guided only by purely legal considerations in the decision of the cases before them and that in the contemplation of the Constitution the members-legislators, thereof, upon assumption of their duties therein, sit in the Tribunal no longer as representatives of their respective political parties but as impartial judges. The view was also submitted that, to further bolster the independence of the Tribunals, the term of office of every member thereof should be considered co-extensive with the corresponding legislative term and may not be legally terminated except only by death, resignation, permanent disability, or removal for valid cause, not including political disloyalty.

"ACCORDINGLY, the Court Resolved: a) to DECLINE the request of Justices Herrera, Cruz, and Feliciano to be relieved from their membership in the House of Representatives Electoral Tribunal and instead to DIRECT them to resume their duties therein: b) to EXPRESS its concern over the intrusion of non-judicial factors in the proceedings of the House of Representatives Electoral Tribunal, which performs functions purely judicial in

character despite the inclusion of legislators in its membership; and c) to NOTE the new that the term of all the members of the Electoral Tribunals, including those from the legislature, is co-extensive with the corresponding legislative term and cannot be terminated at will but only for valid legal cause, and to REQUIRE the Justices-members of the Tribunal to submit the issue to the said Tribunal in the first instance.

"Paras J. filed this separate concurring opinion: 'I concur, but I wish to add that Rep. Camasura should be allowed to cast his original vote in favor of protestant Bondoc, otherwise apolitical and judicial travesty will take place.' Melencio-Herrera, Cruz and Feliciano, JJ., took no part. Gancayco, J., is on leave."

On March 21, 1991, a petition for certiorari, prohibition and mandamus was filed by Dr. Emigdio A. Bondoc against Representatives Marciano M. Pineda, Magdaleno M. Palacol, Juanito G. Camasura, Jr., or any other representative who may be appointed Vice Representative Juanito G. Camasura Jr., and the House of Representatives Electoral Tribunal, praying this Court to:

1. Annul the decision of the House of Representatives of March 13, 1991, "to withdraw the nomination and to rescind the nomination of Representative Juanito G. Camasura, Jr. to the House of Representatives Electoral Tribunal";
2. Issue a writ of prohibition restraining respondent Palacol or whomsoever may be designated in place of respondent Camasura from assuming, occupying and discharging functions as a member of the House of Representatives Electoral Tribunal;
3. Issue a writ of mandamus ordering respondent Camasura to immediately reassume and discharge his functions as a member of the House of Representatives Electoral Tribunal; and
4. Grant such other relief as may be just and equitable.

Upon receipt of the petition, the Court, without giving it due course, required the respondents to comment^[5] on the petition within ten days from notice and to enjoin the HRET "from reorganizing and allowing participation in its proceedings of Honorable Magdaleno M. Palacol or whoever is designated to replace Honorable Juanito G. Camasura in said House of Representatives Electoral Tribunal, until the issue of the withdrawal of the nomination and rescission of the election of said Congressman Camasura as member of the HRET by the House of Representatives is resolved by this Court, or until otherwise ordered by the Court." (p. 39, Rollo.)

Congressman Juanito G. Camasura, Jr. did not oppose the petition.

Congressman Marciano M. Pineda's plea for the dismissal of the petition is centered on Congress' being the sole authority that nominates and elects from its members. Upon recommendation by the political parties therein, those who are to sit in the House of Representatives Electoral Tribunal (and in the Commission on Appointments as well), hence, it allegedly has the sole power to remove any of them whenever the ratio in the representation of the political parties in the House or Senate is materially changed on account of death, incapacity, removal or expulsion from the political party;^[6] that a Tribunal member's term of office is not co-extensive with his legislative term,^[7] for if a member of the Tribunal who changes his party affiliation is not removed from the Tribunal, the constitutional provision mandating representation based on political affiliation would be completely nullified;^[8] and that the expulsion of Congressman Camasura from the LDP, is "purely a party affair" of the LDP^[9] and the decision to rescind his membership in the House Electoral Tribunal is the sole prerogative of the House of Representatives, hence, it is a purely political question beyond the reach of judicial review.^[10]

In his comment, respondent Congressman Magdaleno M. Palacol alleged that the petitioner has no cause of action against him because he has not yet been nominated by the LDP for membership in the HRET.^[11] Moreover, the petition failed to implead the House of Representatives as an indispensable party for it was the House, not the

HRET, that withdrew and rescinded Congressman Camasura's membership in the HRET.[12]

The Solicitor General, as counsel for the Tribunal, argued in a similar vein; that the inclusion of the HRET as a party respondent is erroneous because the petition states no cause of action against the Tribunal. The petitioner does not question any act or order of the HRET in violation of his rights. What he assails is the act of the House of Representatives of withdrawing the nomination, and rescinding the election, of Congressman Juanito Camasura as a member of the HRET.[13]

Replying to the Solicitor General's Manifestation, the petitioner argued that while the Tribunal indeed had nothing to do with the assailed decision of the House of Representatives, it acknowledged that decision by cancelling the promulgation of its decision in HRET Case No. 25 to his (Bondoc's) prejudice.[14] Hence, although the Tribunal may not be an indispensable party, it is a necessary party to the suit, to assure that complete relief is accorded to the petitioner for "in the ultimate, the Tribunal would have to acknowledge, give recognition, and implement the Supreme Court's decision as to whether the relief of respondent Congressman Camasura from the Office of the Electoral Tribunal is valid." [15]

In his reply to Congressman Palacol's Comment, the petitioner explained that Congressman Palacol was impleaded as one of the respondents in this case because after the House of Representatives had announced the termination of Congressman Camasura's membership in the HRET, several newspapers of general circulation reported that the House of Representatives would nominate and elect Congressman Palacol to take Congressman Camasura's seat in the Tribunal.[16]

Now, is the House of Representatives empowered by the Constitution to do that, i.e., to interfere with the disposition of an election contest in the House Electoral Tribunal through the ruse of "reorganizing" the representation in the tribunal of the majority party?

Section 17, Article VI of the 1987 Constitution supplies the answer to that question. It provides:

"Sec. 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns and qualifications of their respective members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be members of the Senate or House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman."

Section 17 reechoes Section 11, Article VI of the 1935 Constitution, except the provision on the representation of the main political parties in the tribunal which is now based on proportional representation from all the political parties, instead of equal representation of three members from each of the first and second largest political aggruppations in the Legislature. The 1935 constitutional provision reads as follows:

"Sec. 11. The Senate and the House of Representatives shall have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or of the House of Representatives, as the case may be, who shall be chosen by each House, three upon nomination of the party having the largest number of votes and three of the party having the second largest number of votes therein. The senior Justice in each Electoral Tribunal shall be its Chairman." (1935 Constitution of the Philippines.)

Under the above provision, the Justices held the deciding votes, and it was impossible for any political party to control the voting in the tribunal.

The 1973 Constitution did not provide for an electoral tribunal in the Batasang Pambansa.

The use of the word "sole" in both Section 17 of the 1987 Constitution and Section 11 of the 1935 Constitution underscores the exclusive jurisdiction of the House Electoral Tribunal as judge of contests relating to the election, returns and qualifications of the members of the House of Representatives (*Robles vs. House of Representatives Electoral Tribunal*, G.R.No. 86647, February 5, 1990). The tribunal was created to function as a nonpartisan court although two-thirds of its members are politicians. It is a non-political body in a sea of politicians. What this Court had earlier said about the Electoral Commission applies as well to the electoral tribunals of the Senate and House of Representatives:

"The purpose of the constitutional convention creating the Electoral Commission was to provide an independent and impartial tribunal for the determination of contests to legislative office, devoid of partisan consideration, and to transfer to that tribunal all the powers previously exercised by the legislature in matters pertaining to contested elections of its members.

"The power granted to the electoral Commission to judge contests relating to the election and qualification of members of the National Assembly is intended to be as complete and unimpaired as if it had remained in the legislature."

"The Electoral Tribunals of the Senate and the House were created by the Constitution as special tribunals to be the sole judge of all contests relating to election returns and qualifications of members of the legislative houses, and, as such, are independent bodies which must be permitted to select their own employees, and to supervise and control them, without any legislative interference." (*Suanes vs. Chief Accountant of the Senate*, 81 Phil. 818.)

To be able to exercise exclusive jurisdiction, the House Electoral Tribunal must be independent. Its jurisdiction to hear and decide congressional election contests is not to be shared by it with the Legislature nor with the Courts.

"The Electoral Commission is a body separate from and independent of the legislature and though not a power in the tripartite scheme of government, it is to all intents and purposes, when acting within the limits of its authority, an independent organ; while composed of a majority of members of the legislature it is a body separate from and independent of the legislature.

x x x x x x x x

"The Electoral Commission, a constitutional organ created for the specific purpose of determining contests relating to election returns and qualifications of members of the National Assembly may not be interfered with by the judiciary when and while acting within the limits of its authority, but the Supreme Court has jurisdiction over the Electoral Commission for the purpose of determining the character, scope and extent of the constitutional grant to the commission as sole judge of all contests relating to the election and qualifications of the members of the National Assembly." (*Angara vs. Electoral Commission*, 63 Phil. 139.)

The independence of the electoral tribunal was preserved undiminished in the 1987 Constitution as the following exchanges on the subject between Commissioners Maambong and Azcuna in the 1986 Constitutional Commission, attest:

"MR. MAAMBONG. Thank you.

"My questions will be very basic so we can go as fast as we can. In the case of the electoral tribunal, either of the House or of the Senate, is it correct to say that these tribunals are constitutional creations? I will distinguish these with the case of the Tanodbayan and the Sandiganbayan which are created by mandate of the Constitution but they are not constitutional creations. Is that a good distinction?

"MR. AZCUNA. That is an excellent statement.

"MR. MAAMBONG. Could we, therefore, say that either the Senate Electoral Tribunal or the House Electoral Tribunal is a constitutional body?

"MR. AZCUNA. It is, Madam President.

"MR. MAAMBONG. If it is a constitutional body, is it then subject to constitutional restrictions?

"MR. AZCUNA. It would be subject to constitutional restrictions intended for that body.

"MR. MAAMBONG. I see. But I want to find out if the ruling in the case of Vera vs. Avelino, 11 Phil. 192, will still be applicable to the present bodies we are creating since it ruled that the electoral tribunals are not separate departments of the government. Would that ruling still be valid?

"MR. AZCUNA. Yes, they are not separate departments because the separate departments are the legislative, the executive and the judiciary; but they are constitutional bodies.

"MR. MAAMBONG. Although they are not separate departments of government, I would like to know again if the ruling in Angara vs. Electoral Commission, 53 Phil. 139, would still be applicable to the present bodies we are deciding on, when the Supreme court said that these electoral tribunals are independent from Congress, devoid of partisan influence or consideration and, therefore, Congress has no power to regulate proceedings of these electoral tribunals.

"MR. AZCUNA. I think that is correct. They are independent although they are not a separate branch of government.

"MR. MAAMBONG. There is a statement that in all parliaments of the world, the invariable rule is to leave unto themselves the determination of controversies with respect to the election and qualifications of their members, and precisely they have this Committee on Privileges which takes care of this particular controversy.

"Would the Gentleman say that the creation of electoral tribunals is an exception to this rule because apparently we have an independent electoral tribunal?

"MR. AZCUNA. To the extent that the electoral tribunals are independent, but the Gentleman will notice that the wordings say: 'The Senate and the House of Representatives shall each have an Electoral Tribunal.' It is still the Senate Electoral Tribunal and the House Electoral Tribunal. So, technically, it is the tribunal of the House and tribunal of the Senate although they are independent.

"MR. MAAMBONG. But both of them, as we have agreed on, are independent from both bodies?

"MR. AZCUNA. That is correct.

"MR. MAAMBONG. This is the bottom line of my question. How can we say that these bodies are independent when we still have six politicians sitting in both tribunals?

"MR. AZCUNA. Politicians can be independent, Madam President.

"MR. MAAMBONG. Madam President, when we discussed a portion of this in the Committee on the Executive, there was a comment by Chief Justice Concepcion — Commissioner Concepcion — that there seems to be some incongruity in these electoral tribunals, considering that politicians still sit in the tribunals in spite of the fact that in the ruling in the case of Sanidad vs. Vera, Senate Electoral Tribunal Case No. 1, they are supposed to act in accordance with law and justice with complete detachment from all political considerations. That is why I am asking now for the record how we could achieve such detachment when there are six politicians sitting there.

"MR. AZCUNA. The same reason that the Gentleman, while chosen on behalf of the opposition, has, with sterling competence, shown independence in the proceedings of this Commission. I think we can also trust that

the members of the tribunals will be independent." (pp. 111-112, Journal, Tuesday, July 22, 1986, Italics ours.)

Resolution of the House of
Representatives violates the
independence of the HRET. —

The independence of the House Electoral Tribunal so zealously guarded by the framers of our Constitution, would, however, be a myth and its proceedings a farce if the House of Representatives, or the majority party therein, may shuffle and manipulate the political (as distinguished from the judicial) component of the electoral tribunal, to serve the interests of the party in power.

The resolution of the House of Representatives removing Congressman Camasura from the House Electoral Tribunal for disloyalty to the LDP, because he cast his vote in favor of the Nacionalista Party's candidate, Bondoc, is a clear impairment of the constitutional prerogative of the House Electoral Tribunal to be the sole judge of the election contest between Pineda and Bondoc.

To sanction such interference by the House of Representatives in the work of the House Electoral Tribunal would reduce the tribunal to a mere tool for the aggrandizement of the party in power (LDP) which the three justices of the Supreme Court and the lone NP member would be powerless to stop. A minority party candidate may as well abandon all hope at the threshold of the tribunal.

Disloyalty to party is not a valid
cause for termination of
membership in the HRET. —

As judges, the members of the tribunal must be non-partisan. They must discharge their functions with complete detachment, impartiality, and independence — even independence from the political party to which they belong. Hence, "disloyalty to party" and "breach of party discipline," are not valid grounds for the expulsion of a member of the tribunal. In expelling Congressman Camasura from the HRET for having cast a "conscience vote" in favor of Bondoc, based strictly on the result of the examination and appreciation of the ballots and the recount of the votes by the tribunal, the House of Representatives committed a grave abuse of discretion, an injustice, and a violation of the Constitution. Its resolution of expulsion against Congressman Camasura is, therefore, null and void.

Expulsion of Congressman Camasura violates his right to security of tenure. —

Another reason for the nullity of the expulsion resolution of the House of Representatives is that it violates Congressman Camasura's right to security of tenure. Members of the HRET, as "sole judge" of congressional election contests, are entitled to security of tenure just as members of the judiciary enjoy security of tenure under our Constitution (Sec. 2, Art. VIII, 1987 Constitution). Therefore, membership in the House Electoral Tribunal may not be terminated except for a just cause, such as, the expiration of the member's congressional term of office, his death, permanent disability, resignation from the political party he represents in the tribunal, formal affiliation with another political party, or removal for other valid cause. A member may not be expelled by the House of Representatives for "party disloyalty" short of proof that he has formally affiliated with another political group. As the records of this case fail to show that Congressman Camasura has become a registered member of another political party, his expulsion from the LDP and from the HRET was not for a valid cause, hence, it violated his right to security of tenure.

There is nothing to the argument of respondent Pineda that members of the House Electoral Tribunal are not entitled to security of tenure because, as a matter of fact, two Supreme Court Justices in the Tribunal were

changed before the end of the congressional term, namely: Chief Justice Marcelo B. Fernan who, upon his elevation to the office of Chief Justice, was replaced by Justice Florentino P. Feliciano, and the latter, who was temporarily replaced by Justice Emilio A. Gancayco, when he (J. Feliciano) took a leave of absence to deliver a lecture in Yale University. It should be stressed, however, that those changes in the judicial composition to the HRET had no political implications at all unlike the present attempt to remove Congressman Camasura. No coercion was applied on Chief Justice Fernan to resign from the tribunal, nor on Justice Feliciano to go on a leave of absence. They acted on their own free will, for valid reasons, and with no covert design to derail the disposition of a pending case in the HRET.

The case of Congressman Camasura is different. He was expelled from, and by, the LDP to punish him for "party disloyalty" after he had revealed to the Secretary-General of the party how he voted in the Bondoc case. The purpose of the expulsion of Congressman Camasura was to nullify his vote in the Bondoc case so that the HRET's decision may not be promulgated, and so that the way could be cleared for the LDP to nominate a replacement for Congressman Camasura in the Tribunal. That stratagem of the LDP and the House of Representatives is clearly aimed to substitute Congressman Camasura's vote and, in effect, to change the judgment of the HRET in the Bondoc case.

The judicial power of this Court has been invoked by Bondoc for the protection of his rights against the strong arm of the majority party in the House of Representatives. The Court cannot be deaf to his plea for relief, nor indifferent to his charge that the House of Representatives had acted with grave abuse of discretion in removing Congressman Camasura from the House Electoral Tribunal. He calls upon the Court, as guardian of the Constitution, to exercise its judicial power and discharge its duty to protect his rights as the party aggrieved by the action of the House. The Court must perform its duty under the Constitution "even when the violator be the highest official of the land or the Government itself (Concurring opinion of J. Antonio Barredo in *Aquino vs. Ponce-Enrile*, 59 SCRA 183, 207).

Since the expulsion of Congressman Camasura from the House Electoral Tribunal by the House of Representatives was not for a lawful and valid cause, but to unjustly interfere with the tribunal's disposition of the Bondoc case and to deprive Bondoc of the fruits of the Tribunal's decision in his favor, the action of the House of Representatives is clearly violative of the constitutional mandate (Sec. 17, Art. VI, 1987 Constitution) which created the House Electoral Tribunal to be the "sole judge" of the election contest between Pineda and Bondoc. We, therefore, declare null and void the resolution dated March 13, 1991 of the House of Representatives withdrawing the nomination, and rescinding the election, of Congressman Camasura as a member of the House Electoral Tribunal. The petitioner, Dr. Emigdio Bondoc, is entitled to the reliefs he prays for in this case.

WHEREFORE, the petition for certiorari, prohibition and mandamus is granted. The decision of the House of Representatives withdrawing the nomination and rescinding the election of Congressman Juanito G. Camasura, Jr. as a member of the House Electoral Tribunal is hereby declared null and void ab initio for being violative of the Constitution, and Congressman Juanito G. Camasura, Jr. is ordered reinstated to his position as a member of the House of Representatives Electoral Tribunal. The HRET Resolution No. 91 -0018 dated March 14, 1991, cancelling the promulgation of the decision in HRET Case No. 25 ("Dr. Emigdio Bondoc vs. Marciano A. Pineda") is also set aside. Considering the unconscionable delay incurred in the promulgation of that decision to the prejudice of the speedy resolution of electoral cases, the Court, in the exercise of its equity jurisdiction, and in the interest of justice, hereby declares the said decision DULY PROMULGATED, effective upon service of copies thereof on the parties, to be done immediately by the Tribunal. Costs against respondent Marciano A. Pineda.

SO ORDERED.

Narvasa, Paras, Bidin, Medialdea, Regalado, and Davide, Jr., JJ., concur.
Fernan, C.J. and Melencio-Herrera, JJ., no part - formerly Chairmen of HRET.
Cruz and Feliciano, JJ., no part; members of HRET.
Gutierrez, Jr., certifies that he concurs with J. Aquino and votes to grant the petition.
Padilla and Sarmiento, JJ., see dissent.

[1] Annex.B, p. 29, Rollo.

[2] Annex D, p. 34, Rollo,

[3] Resolution No. 03-91, p. 35, Rollo.

[4] Annex D-2, p. 36, Rollo.

[5] The comments of the respondents were later treated as their answers to the petition to which the Court gave due course.

[6] p. 53, Rollo.

[7] p. 93, Rollo.

[8] p. 94, Rollo.

[9] p. 111, Rollo.

[10] p. 99, Rollo.

[11] p. 127, Rollo.

[12] p. 130, Rollo.

[13] p. 142, Rollo.

[14] p. 150, Rollo.

[15] p. 152, Rollo.

[16] p. 157, Rollo.

DISSENTING OPINION**PADILLA, J.:**

Can the Supreme Court review and annul an act of the House of Representatives, assuming that said act were politically motivated, but well within the constitutional parameters of its authority?

The majority would postulate that the Court is empowered to do so on the strength of the second paragraph, Section 1 of Art. VIII of the 1987 Constitution which reads:

"Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the

government."

The majority would even go as far as annul the action of the House of Representatives in withdrawing and rescinding its nomination to the House Electoral Tribunal of Congressman Juanito J. Camasura, Jr. and order Camasura's reinstatement to said Tribunal. I regret I cannot join the majority's posture which, I believe, is violative of the almost sacramental doctrine of separation of powers enshrined in the Constitution. It is for this reason that I register my dissent.

A fundamental principle in our constitutional system is that the powers of government are distributed among three (3) great departments: legislative, executive and judicial. Each of these departments is separate from, yet coordinate and co-equal with the others each one deriving its authority directly from the fundamental law.[1] As Mr. Justice Moreland summarized, "the three departments are not only coordinate, they are co-equal and co-important. While interdependent, in the sense that each is unable to perform its functions fully and adequately without the other, they are nevertheless in many senses independent of each other. That is to say, one department may not control or even interfere with another in the exercise of its particular functions." [2] (Italics supplied)

The completeness of their separation and mutual independence does not, however, extend to the point that those in authority in one department can ignore and treat the acts of those in authority in the others, done pursuant to the authority vested in them, as nugatory and not binding in every other department.[3] In other words, one department must not encroach upon nor interfere with acts done within the constitutional competence of the other where full discretionary authority has been delegated by the Constitution to said department. That department alone, to the exclusion of the others, has both right and duty to exercise it free from any encroachment or interference of whomsoever.[4]

This principle or doctrine of separation of powers is enforced by the judiciary through the exercise of its power of judicial review and prudent refusal to assume jurisdiction over cases involving political questions.[5]

In the case at bar, one notes that the dispute emerged when the House of Representatives withdrew and rescinded the nomination of Congressman Juanito J. Camasura, Jr. to the House Electoral Tribunal. This act was, it seems, precipitated by a letter of Congressman Jose S. Cojuangco, Jr. informing the Speaker of the House of Representatives of the expulsion of Congressman Juanito J. Camasura, Jr. from the LDP for having allegedly helped to organize the Partido Pilipino of Mr. Eduardo Cojuangco, Jr. and for allegedly having invited other LDP members to join the said political party. As a result of this letter, the nomination of Camasura to the House Electoral Tribunal was withdrawn at a plenary session of the House of Representatives and the House Electoral Tribunal was informed of such action of the House.

Petitioner assails the propriety of said action of the House of Representatives as it is, he alleges, but a ploy to thwart the promulgation of a decision in the electoral protest lodged by him (petitioner Bondoc) against Marciano M. Pineda, a member of the Laban ng Demokratikong Pilipino (LDP), and which decision would be favorable to him (Bondoc). Petitioner contends that not only does the action of the House of Representatives violate the independence of the House Electoral Tribunal but that it also violates the security of tenure of Congressman Camasura, Jr. in said electoral tribunal.

Congressman (respondent) Pineda, on the other hand, submits that the House of Representatives has the sole authority to nominate and select from among its members who are to sit in the House Electoral Tribunal, upon recommendation of the political parties therein, hence, it also has the sole power to remove any of them from the electoral tribunal whenever the ratio in the representation of the political parties in the House is materially changed on account of death, incapacity, removal or expulsion of a House member from a political party. A Tribunal member's term of office in said electoral tribunal is not, Congressman Pineda argues, co-extensive with

his legislative term. Were that the fact, the constitutional provision mandating representation in the electoral tribunal based on political affiliation may be completely nullified in the event that a member of the Tribunal changes party affiliation.

As provided for in the Constitution, there are nine (9) members of the House Electoral Tribunal. Three (3) of the members of the tribunal are Justices of the Supreme Court as designated by the Chief Justice of the Supreme Court. The remaining six (6) members come from the members of the House chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party list system.[6] The House of Representatives has the power to nominate the members of the House Electoral Tribunal (representing the House) provided, of course, that the proportional representation of parties is maintained.

Can the House of Representatives withdraw the nomination extended to a member of the electoral tribunal (representing the House of Representatives) after the majority party in the House has expelled him from its ranks? I believe it can. The power to appoint or designate a member of the House of Representatives to be a member of the House Electoral Tribunal must, to my mind, necessarily include the power to remove said member. A withdrawal of the nomination of a member of the Tribunal where such withdrawal will maintain the proportional representation of the political parties, mandated by the Constitution, must be recognized and respected, no matter how politically motivated it might be. Constitutional law, it is said, is concerned with power not with policy, wisdom or expediency.[7] The question that must be asked in testing the validity of such legislative act is, does the House of Representatives have the power to do what it has done and not whether the House of Representatives should have done what it has done.

Corollary to the above is, can the Judiciary question a legislative act done within the constitutional authority to the legislature? I believe not, in the same way that, for instance, the House cannot question the act of the Chief Justice, should he deem it proper to change the Justices who sit as members of the House Electoral Tribunal. Matters such as — who will be designated or nominated as members of the electoral tribunal, how they should vote — surely are matters that not merely concern political action as far as members of the House are concerned, but are the very essence of political action, if political life has any connotation at all. To open courts of justice to such political controversies would have courts sit in judgment over the manifold disputes engendered by political maneuvers and skirmishes. This would drag the courts into the political arena which in the long run could undermine and destroy their independence.

The judicial department, in my opinion, has no power to review even the most arbitrary and unfair action of the legislative department, taken in the exercise of power committed exclusively to it by the Constitution.[8] It is not within the province of this Court to supervise legislation or oversee legislative acts as to keep them within the bounds of propriety, fairness and common sense. Such acts, like the one at bar, are exclusively of legislative concern.[9] To hold otherwise would be to invalidate the principle of separation of powers. As Judge Learned Hand so aptly observed, "one cannot find among the powers granted to courts any authority to pass upon the validity of the decisions of another 'Department' as to the scope of that 'Department's' powers. Indeed, it is to be understood that the three (3) 'Departments' were separate and co-equal, each being, as it were, a Leibnizian monad, looking up to the Heaven of the Electorate, but without any mutual dependence. What could be better evidence of complete dependence than to subject the validity of the decision of one 'Department' as to its authority on a given occasion to review and reversal by another? Such a doctrine makes supreme the 'Department' that has the last word." [10] (Italics supplied)

The Court should not lose sight of the fact that "sometimes the division of power tacitly accepted by society runs counter to its own ideology and to the constitutional commandments. This may be because the society is still unsure of what the best division of power would be and so temporarily accepts the existing one, or because the

society has vacated its decision making function and special interest groups have stepped in to fill the vacuum. In either case, the Court can neither validate a clearly unconstitutional distribution, and thereby subject its role as guardian to claims fraud, nor invalidate a functioning system with an order which would be ignored. To do either would be to sacrifice the popular prestige which is the Court's primary source of power." [11]

Even assuming that the act of the House of Representatives in withdrawing and rescinding the nomination of Congressman Camasura, Jr. as a member of the House Electoral Tribunal is politically motivated, precipitated as it is by the knowledge of how Camasura, Jr. is to vote in one of the electoral protests before said Tribunal, this, to me, is not sufficient reason to invalidate said act of the House of Representatives, since it is done within the limits of its constitutional power. Besides, what other act of the House (or Senate) is there that is not politically motivated? After all, that branch of government is a political branch and necessarily or pragmatically all of its acts are and will always be politically motivated.

The environmental facts of this case do not, in my considered opinion, bring it within the Court's power to strike down the legislative act in question, it is the people of this nation — not this court — who should ultimately judge the act when they cast their ballots. The Court cannot arrogate unto itself the power to institute what it perceives to be political reforms, for in the last analysis on which all else depend, the vitality of a political system would be greatly weakened by reliance on the judiciary for any and all political reforms and, in time, a complacent body politic will result. It is the responsibility of the people and none other, to remain ever vigilant about their government to the end that they can continue to live under a regime of justice, liberty and democracy. To leave this task to the Court, would in the long run be inimical to and destructive of democratic government itself.

ACCORDINGLY, I vote to DISMISS the petition.

[1] People vs. Vera, 65 Phil 56.

[2] Province of Tarlac vs. Gale, 26 Phil. 338, 349.

[3] Kilbourn vs. Thomson, 103 US 168, 25 L. ed. 177; Abueva vs. Wood, 45 Phil. 612.

[4] Mr. Jusice Conception in Tanada vs. Mariano Jesus Cuenco, et al, G.R. No. L-10520, 28 February 1957.

[5] Neptali Gonzales, Philippine Political Law, 1966 ed., p. 102.

[6] Section 17, Article VI, 1987 Constitution.

[7] Bautista vs. Salonga, G.R. No. 86439, 13 April 1989, 172 SCRA

[8] Vera v. Avelino, 11 Phil. 192.

[9] People v. Carlos, 78 Phil. 535.

[10] Delivered on occasion of the Oliver Wendell Homes Lecture of 1958 and published in LEARNED HAND, The Bill of Rights 4 (1958).

[11] Philipa Strum. "The Supreme Court and Political Questions" a study in judicial evasion, 1974 ed., p. 103.

DISSENTING OPINION

SARMIENTO, J.:

Like my distinguished colleague Justice Teodoro Padilla, I too am unable to agree with the majority. I believe that the question, as Justice Padilla raised it — can the Court annul an act of Congress, revamping its House Electoral Tribunal? — is a political question and a question in which the Court can not intervene.

It is true that under the Charter, the jurisdiction of this Court includes the power to strike down excesses of any agency of Government, but the Charter did not alter or discard the principle of separation of powers.

Evidently, Congressman Camasura's ouster from the Tribunal was a result of political maneuvers within the lower house. This Court, however, is above politics and Justices should be the last persons to get involved in the "dirty" world of politics. If they do, they risk their independence.

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