

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FOURTEENTH CONGRESS
Second Regular Session

House Concurrent Resolution No. 13

Introduced by the **Honorable ROILO GOLEZ**

CONCURRENT RESOLUTION

PROPOSING TO AMEND SECTION 8 AND SECTION 9 OF ARTICLE VIII OF THE CONSTITUTION (JUDICIAL DEPARTMENT) TRANSFERRING THE POWER TO APPOINT MEMBERS OF THE JUDICIAL AND BAR COUNCIL AND THE MEMBERS OF THE SUPREME COURT AND JUDGES OF THE LOWER COURTS FROM THE PRESIDENT TO THE SUPREME COURT ACTING EN BANC AND REORGANIZING THE JUDICIAL AND BAR COUNCIL

WHEREAS, Section 1 of Article XVII of the Constitution provides that:

"Section 1. Any amendment to, or revision of, this Constitution may be proposed by:

- 1) The Congress, upon a vote of three-fourths of all its Members; "

WHEREAS, Section 8, Article VIII of the Constitution provides that "(1) A Judicial and Bar Council is hereby created under the supervision of the Supreme Court composed of the Chief Justice as ex officio Chairman, Secretary of Justice, and a representative of the integrated Bar, a professor of Law, a retired Member of the Supreme Court, and a representative of the private sector. (2) The regular members of the Council shall be appointed by the President for a term of four years with the consent of the CA.";

WHEREAS, Section 9 of Article VIII of the 1987 Constitution states "The Members of the Supreme Court and judges of the lower courts shall be appointed by the President..."

WHEREAS, the aforementioned provisions of the Constitution have long generated speculations and suspicions that the selection process for members of the Supreme Court and judges of the lower courts is subject to political interference and pressure;

WHEREAS, the United Kingdom, one of the oldest democracies of the world and a country with centuries of judicial experience, recently passed its Constitutional Reform Act of 2005 which drastically restructured their High Court system and created a new Supreme Court because the old system "confused people and offended constitutional principles of separation of powers and independence of the judiciary";

WHEREAS, the Constitutional Reform Act of 2005 of the United Kingdom included the setting up of a politics-free and independent Judicial Appointments Commission to select judges (including Members of the Supreme Court) that "selects candidates for judicial office based on merit, fair and open competition from the widest range of eligible candidates measured by five core qualities: intellectual capacity; personal qualities (integrity, independence, judgment, decisiveness, objectivity, ability, willingness to learn); ability to understand and deal fairly; authority and communication skills; and efficiency";

WHEREAS, we should consider the aforementioned judicial reforms recently instituted in the United Kingdom as it appears that now, more than ever, the present judicial system, like the old U.K. system, has "confused people and offended constitutional principles of separation of powers and independence of the judiciary";

WHEREAS, to minimize or eliminate speculations and suspicions that those persons previously holding presidential appointments, or have held senior elective positions, may be vulnerable to pressure and interference from their appointing authority or their partisan political affiliations, it is necessary to disqualify said persons from being appointed members of the Judiciary;

WHEREAS, these reforms, if instituted, shall make the Judiciary truly independent and impervious to speculation that their decisions are subject to political interference and pressure;

WHEREAS, if the United Kingdom, with their long judicial history, dared to radically change their Judiciary, the Philippines should follow the example and likewise consider drastic reforms to plug the holes in the system;

WHEREAS, the practice of minimizing or eliminating the role of the Head of Government (President in a presidential system or prime minister in a parliamentary system) is now observed in several countries such as in:

1. Italy, where the 15 members of the Constitutional Court, the supreme court of Italy, are selected as follows: one-third appointed by the President (not the Prime Minister), one-third elected by the Parliament, and one-third elected by ordinary and administrative supreme courts. The members then elect the President of the Court (equivalent to Chief Justice) from among its members in a secret ballot; thus, the Head of the Court is not appointed by the head of government.
2. Thailand, where, prior to the latest military coup, the Constitution gave the judiciary a strong influence over the composition of the Constitutional Court (the Thai Supreme Court). A 17-person panel would propose 18 names from among which the Parliament would elect nine (9) justices; the panel president is the President of the Supreme Court. Seven (7) of the justices are appointed directly by the judiciary while the remaining justices were appointed by the Senate from a list of Supreme Court nominees.
3. India, where the Supreme Court Chief Justice and 25 other judges are appointed not by the Head of Government (Prime Minister) but by the President in consultation with the Supreme Court and "appointments are generally made on the basis of seniority and not political preference."

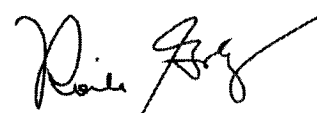
NOW, THEREFORE BE IT RESOLVED by the House of Representatives, the Senate concurring, to propose the amendment of Sections 8 and 9 of Article VIII of the 1987 Constitution as follows:

Section 8 of Article VIII should be amended by deleting "the Secretary of Justice, and a representative of the Congress as ex officio members" and transferring the power to appoint JBC regular members from the President to the Supreme Court acting en banc.

Section 9 of Article VIII should be amended to state as follows: "The Members of the Supreme Court and judges of the lower courts shall be appointed by the Supreme Court acting en banc."

A new Section should be added providing that those persons previously holding presidential appointments, or have held senior elective positions, shall be disqualified from being appointed members of the Judiciary.

Adopted,



ROILO GOLEZ