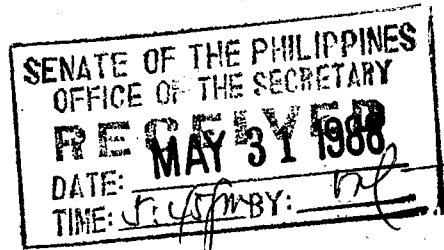


Congress of the Philippines)
First Regular Session)



S E N A T E

COMMITTEE REPORT No. 263

Submitted by the Committee on Justice and Human Rights on

~~MAY 31 1988~~ 1988.

Re: Senate Bill No. 543
Consolidating Senate Bill Nos. 394 and 299.

Recommending approval of the consolidated bill prepared by the
Committee

Sponsors: Senators Angara, Tañada and Rasul.

MR. PRESIDENT:

The Committee on Justice and Human Rights, to which were
referred Senate Bill No. 394, introduced by Senators Angara and
Tañada, entitled:

"AN ACT TO ESTABLISH AND ORGANIZE THE OFFICE OF
THE OMBUDSMAN"

and Senate Bill No. 299, introduced by Senator Rasul, entitled:

"AN ACT REPEALING EXECUTIVE ORDER NO. 243 AND
PROVIDING FOR THE ORGANIZATION OF THE
OFFICE OF THE TANODBAYAN (OMBUDSMAN)"

has considered these bills and has the honor to report them back
to the Senate with the recommendation that the said bills be
consolidated in the attached bill S. No. 543 prepared by the
Committee, entitled:

"AN ACT PROVIDING FOR THE STRUCTURAL AND
FUNCTIONAL ORGANIZATION OF THE OFFICE OF
THE OMBUDSMAN, AND FOR OTHER PURPOSES"

and that this bill be approved with Senators Angara, Tañada and Rasul as sponsors.

Respectfully submitted:

[Signature]
 WILBERTO E. TAÑADA
 Chairman

[Signature]
 NEPTALI A. GONZALES
 Vice Chairman

Members:

[Signature]
EDGARDO J. ANGARA

[Signature]
JOSE D. LINA, JR.

[Signature]
AQUILINO Q. PIMENTEL, JR.

[Signature]
VICTOR S. ZIGA

[Signature]
ERNESTO F. HERRERA

[Signature]
AGAPITO A. AQUINO

with reservation
[Signature]
SANTANINA T. RASUL

[Signature]
ALBERTO P. ROMULO

[Signature]
MAMINTAL ABDUL J. TAMANO

[Signature]
SOTERO H. LAUREL

(Spd) - 6/9/88
11:03 am

with reservation
[Signature]
RENE A. V. SAGUISAG

Ex-Officio Members:

with reservation
[Signature]
ORLANDO S. MERCADO
Majority Floor Leader

JUAN PONCE ENRILE
Minority Floor Leader

[Signature] *with reservation*
TEOFISTO T. GUINGONA, JR.
President Pro-Tempore

HON. JOVITO R. SALONGA
President of the Senate
Manila

SENATE *512 PT*

S. NO. 543
222

Introduced by Senators Angara, Tañada, Rasul, Gonzales
222 " " " and Guingona, Jr. *222* " " " " " *222*

*COPT solid
24 meas*

for rule

*H/P
H/O*

AN ACT
PROVIDING FOR THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF
THE OFFICE OF THE OMBUDSMAN, AND FOR OTHER PURPOSES

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

- 1 SECTION 1. Title. This Act shall be known as the
2 Ombudsman Act of 1988.
- 3 SEC. 2. Declaration of Policy. The State shall
4 maintain honesty and integrity in the public service and
5 take positive and effective measures against graft and
6 corruption.
- 7 Public office is a public trust. Public officers
8 and employees must at all times be accountable to the
9 people, serve them with utmost responsibility, integrity,
10 loyalty and efficiency, act with patriotism and justice
11 and lead modest lives.
- 12 SEC. 3. Office of the Ombudsman. The independent
13 Office of the Ombudsman shall be composed of the
14 Ombudsman to be known as Tanodbayan, one Overall Deputy to
15 be known as Senior Deputy Tanodbayan and one Deputy each for
16 Luzon, Visayas and Mindanao. A separate Deputy for the
17 Armed Forces may likewise be appointed. The Special
18 Prosecutor shall be under the Office of the Ombudsman.
- 19 SEC. 4. Appointment. The Tanodbayan and his
20 Deputies, including the Special Prosecutor, shall be
21 appointed by the President from a list of at least six
22 nominees prepared by the Judicial and Bar Council, and

Not numbered

24

1 from a list of three nominees for each vacancy thereafter
 2 which shall be filled within three (3) months after it
 3 occurs, each of which list shall ^{be} ~~have been~~ published in a
 4 newspaper of general circulation.

5 *D* In the organization of the Office of the Ombudsman
 6 for filling up of vacancies therein, regional,
 7 cultural or ethnic considerations shall be taken into
 8 account to the end that the office shall be, as *copy*
 9 much as possible, representative of the regional,
 10 ethnic and cultural make-up of the Filipino nation.

11 *SEC. 5. Qualifications.* *M* The Tanodbayan and his
 12 Deputies, including the Special Prosecutor, shall be
 13 natural-born citizens of the Philippines, at least
 14 forty (40) years old, of recognized probity and
 15 independence, members of the Philippine Bar, and must not
 16 have been candidates for any elective national or
 17 local office in the immediately preceding election whether
 18 regular or special. The Tanodbayan must have, for ten
 19 (10) years or more, been a judge or engaged in the practice
 20 of law in the Philippines.

21 *SEC. 6. Rank and Salary.* *M* The Tanodbayan and his
 22 Deputies shall have the same ranks and salaries as the
 23 Chairman and Members, respectively, of a Constitutional
 24 Commission. Their salaries shall not be decreased during
 25 their term of office.

26 *SEC. 7. Term of Office.* *M* The Tanodbayan and his
 27 Deputies, including the Special Prosecutor, shall serve for
 28 a term of seven (7) years without reappointment.

29 *SEC. 8. Removal; Filling of Vacancy.* *M* (1) In
 30 accordance with the provisions of Article XI of the
 31 Constitution, the Tanodbayan may be removed from office on
 32 impeachment for, and conviction of, culpable violation of

*10 pt solid
24 pt minor*

1 the Constitution, treason, bribery, graft and corruption,
2 other high crimes, or betrayal of public trust.

3 (2) A Deputy, including the Special Prosecutor, after
4 due notice and hearing may be removed from Office by the
5 Tanodbayan upon the recommendation of a three-man committee
6 to be appointed by the Tanodbayan and whose qualifications
7 shall be the same as those of the appointive members of the
8 Judicial and Bar Council.

9 (3) In case of vacancy in the Office of the Ombudsman
10 due to death, resignation, removal or permanent disability
11 of the incumbent Tanodbayan, the Overall Deputy shall serve
12 as Acting Tanodbayan in a concurrent capacity until a new
13 Tanodbayan shall have been appointed for a full term. In
14 case the Overall Deputy cannot assume the role of
15 Acting Tanodbayan, the most Senior Deputy in terms of
16 appointment shall assume the role of Acting Tanodbayan until
17 a new Tanodbayan shall have been appointed.

18 (4) In case of temporary absence or disability of the
19 Tanodbayan, the Overall Deputy shall perform the duties of
20 the Tanodbayan until the Tanodbayan returns or is able to
21 perform his duties.

22 SEC. 9. Prohibitions and Disqualifications. ¹ The
23 Tanodbayan, his Deputies and the Special Prosecutor shall _m
24 not, during their tenure, hold any other office or
25 employment. They shall not, during said tenure, directly or
26 indirectly practice any other profession, participate in any
27 business, or be financially interested in any contract with,
28 or in any franchise, or special privilege granted by the
29 government or any subdivision, agency, or instrumentality
30 thereof, including government-owned or controlled
31 corporations or their subsidiaries. They shall strictly
32 avoid conflict of interest in the conduct of their office.

*10 pt sold
24 pence*

031884-9

1 They shall not be qualified to run for any office in the
2 election immediately ^{following} ~~successing~~, their cessation from
3 office. They shall not be allowed to appear or practice
4 before the Tanodbayan for two (2) years following
5 their cessation from office.

6 D No spouse or relative by consanguinity or affinity
7 within the fourth civil degree and no law, business or
8 professional partner or associate of the Tanodbayan, his
9 Deputies or Special Prosecutor within one year preceding the
10 appointment may appear as counsel or agent on any matter
11 pending before the Office of the Ombudsman or transact
12 business directly or indirectly therewith.

13 This disqualification shall apply during the tenure of
14 the official concerned. This disqualification likewise
15 extends to the law, business or professional firm for the
16 same period.

17 SEC. 10. Disclosure of Relationship. [!] It shall be the
18 duty of the Tanodbayan, his Deputies, including the Special
19 Prosecutor to ~~individually~~ ^m make under oath, to the best of
20 their knowledge and/or information, a public disclosure of
21 the identities of [↑] and their relationship with [↑] the persons
22 referred to in the preceding section.

23 The disclosure shall be filed with the Office of the
24 President and the Office of the Ombudsman before the
25 appointee assumes office and every year thereafter. The
26 disclosures made pursuant to this section shall form part of
27 the public records and shall be available to any person or
28 entity upon request.

29 SEC. 11. Structural Organization. [!] The authority
30 and responsibility for the exercise of the mandate of the
31 Office of the Ombudsman and for the discharge of its powers
32 and functions shall be vested in the Tanodbayan, who shall

*Controlled
24 p.m.*

031884-5

1 have supervision and control of the said Office.

2 *D* (1) The Office of the Ombudsman shall consist of the
3 Office of the Tanodbayan, the Office of the Overall Deputy,
4 the Office of the Deputy for Luzon, the Office of the Deputy
5 for the Visayas, the Office of the Deputy for Mindanao,
6 the Office of the Deputy for the Armed Forces, and the
7 Office of the Special Prosecutor. The President may appoint
8 other deputies as the necessity for it may arise, as
9 recommended by the Tanodbayan.

10 *copy* (2) The Office of the Ombudsman may organize such
11 directorates for administration and allied services
12 (personnel, records, budget and finance, purchasing and
13 property, general services, security, legal, investigation
14 and research).

15 (3) The Office of the Overall Deputy shall oversee
16 and administer the operations of the different offices under
17 the Office of the Ombudsman. It shall likewise perform such
18 other functions and duties assigned to it by the Tanodbayan.

19 (4) The Office of the Special Prosecutor shall be
20 composed of the Special Prosecutor and his prosecution
21 staff. The office, under the supervision and control and
22 upon the authority of the Office of the Ombudsman, shall have
23 the following powers:

24 a) To conduct preliminary investigation and prosecute
25 criminal cases within the jurisdiction of the Sandiganbayan;

26 b) To enter into plea bargaining agreements; *and*

27 c) To perform such other duties assigned to it by the
28 Tanodbayan.

29 *E* The Special Prosecutor shall have the rank and salary
30 of a Deputy Tanodbayan. ~~The members of the prosecution staff~~
31 ~~of the Office of the Ombudsman shall receive salaries which~~
32 shall not be less than ~~those of the members of the~~

prosecution staff of the Department of Justice.

(5) The position structure and staffing pattern of the Office of the Ombudsman, including the Office of the Special Prosecutor, shall be approved and prescribed by the Tanodbayan. The Tanodbayan shall appoint all officers and employees of the Office of the Ombudsman, including those of the Office of the Special Prosecutor, in accordance with the civil service law, rules and regulations.

SEC. 11. Official Stations. The Tanodbayan, the Overall Deputy, the Deputy for Luzon, and the Deputy for the Armed Forces, if any, shall hold office in Metropolitan Manila; the Deputy for the Visayas, in Cebu City; and the Deputy for Mindanao, in Malaybalay, Bukighon. The Tanodbayan Deputies shall visit the various regions within their respective geographical areas at least once a year as public interest may require.

SEC. 12. Mandate. The Tanodbayan and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the government to the people.

SEC. 13. Powers, Functions and Duties. The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate on its own, or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient,

*10M sold
24 puma*

031884-7

1 including the power to conduct preliminary investigation and
2 to direct the filing of the criminal cases with the proper
3 courts. Preliminary investigation shall be started
4 forthwith and terminated within one hundred twenty (120)
5 days from the date of the filing of the complaint.

6 (2) Direct, upon complaint or at its own instance,
7 any officer or employee of the Government, or of any
8 subdivision, agency or instrumentality thereof, as well
9 as any government-owned or controlled corporation with
10 original charter, to perform and expedite any act or duty
11 required by law, or to stop, prevent, and correct any abuse
12 or impropriety in the performance of duties.

13 (3) Direct the officer concerned to take appropriate
14 action against a public officer or employee at fault or who
15 neglects to perform an act or discharge a duty required by
16 law, and recommend his removal, suspension, demotion, fine,
17 censure, or prosecution, and ensure compliance therewith;
18 or enforce its disciplinary authority as provided in
19 Section 17 of this Act; Provided, That the refusal by any
20 officer without just cause to comply with an order of
21 the Tanodbayan to remove, suspend, demote, fine, censure, or
22 prosecute an officer or employee who is at fault or who
23 neglects to perform an act or discharge a duty required
24 by law shall be a ground for disciplinary action against
25 said officer.

26 (4) Direct the officer concerned, in any appropriate
27 case, and subject to such limitations as it may provide in
28 its rules of procedure, to furnish it with copies of
29 documents relating to contracts or transactions entered into
30 by his office involving the disbursement or use of public
31 funds or properties, and report any irregularity to the
32 Commission on Audit for appropriate action.

*10pts solid
29 p*

031884-8

Beri

D

(5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents.

(6) Publicize matters covered by its investigation of the matters mentioned in paragraphs (1), (2), (3) and (4) hereof, when circumstances so warrant and with due prudence: Provided, That the Tanodbayan under its rules and regulations may determine what cases may not be made public: Provided, further, That any publicity issued by the Tanodbayan shall be balanced, fair and true.

(7) Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government, and make recommendations for their elimination and the observance of high standards of ethics and efficiency.

(8) Administer oaths, issue subpoenas and subpoena duces tecum, and take testimony in any investigation or inquiry, including the power to examine and have access to bank accounts and records.

(9) Punish for contempt in accordance with the Rules of Court and under the same procedure and with the same penalties provided therein.

(10) Delegate to the Deputies, or its investigators or representatives such authority or duty as shall ensure the effective exercise or performance of the powers, functions, and duties herein or hereinafter provided.

(11) Investigate and initiate the proper action for the recovery of ill-gotten and/or unexplained wealth amassed after February 25, 1986 and the prosecution of the parties involved therein.

The Tanodbayan shall give priority to complaints filed against high ranking government officials and/or those

*COMPLAINTS
24 pages*

031884-9

1 occupying supervisory positions, complaints involving grave
2 offenses as well as complaints involving large sums of money
3 and/or properties.

4 *D* SEC. 14. Applicability. *m* The provisions of this Act
5 shall apply to all kinds of malfeasance, misfeasance, and
6 nonfeasance that have been committed by any officer or
7 employee as mentioned in Section 12 hereof, during his
8 tenure of office.

9 *L* SEC. 15. Immunities. *m* In all hearings, inquiries, and
10 proceedings of the Tanodbayan, including preliminary
11 investigations of offenses, no person subpoenaed to testify
12 as a witness shall be excused from attending and testifying
13 or from producing books, papers, correspondence, memoranda
14 and other records on the ground that the testimony or
15 evidence, documentary or otherwise, required of him may tend
16 to incriminate him or subject him to prosecution: Provided,
17 That no person shall be prosecuted criminally for or on
18 account of any matter concerning which he is compelled,
19 after having claimed the privilege against self-
20 incrimination, to testify and produce evidence, documentary
21 or otherwise.

22 Under such terms and conditions as it may determine,
23 taking into account the pertinent provisions of the Rules of
24 Court, the Tanodbayan may grant immunity from criminal
25 prosecution to any person whose testimony or whose
26 possession and production of documents or other evidence may
27 be necessary to determine the truth in any hearing, inquiry
28 or proceeding being conducted by the Tanodbayan or under its
29 authority, in the performance or in the furtherance of its
30 constitutional functions and statutory objectives. The
31 immunity granted under this and the immediately preceding
32 paragraph shall not exempt the witness from criminal

10 J. 24
24

031884-10

1 prosecution for perjury or false testimony nor shall he be
2 exempt from demotion or removal from office.

3 *P* Any refusal to appear or testify pursuant to the
4 foregoing provisions shall be subject to punishment for
5 contempt and removal of the immunity from criminal
6 prosecution.

7 *SEC.* 16. Rules of Procedure. *f* (1) The Office of the
8 Ombudsman shall promulgate its rules of procedure for
9 the effective exercise or performance of its powers,
10 functions, and duties.

11 (2) The rules of procedure shall include a provision
12 whereby the Rules of Court are made supplementary.

13 (3) The rules shall take effect after fifteen (15) days
14 following the completion of their publication in the
15 Official Gazette or in three ⁽³⁾ newspapers of general
16 circulation in the Philippines, one of which is printed in
17 the national language.

18 *SEC.* 17. Disciplinary Authority. *f* (1) The Office of
19 the Ombudsman shall have concurrent disciplinary authority
20 with the Civil Service Commission, the heads of departments
21 or agencies, instrumentalities, provinces, cities or
22 municipalities, and bureaus or offices granted
23 administrative disciplinary authority by special laws:
24 Provided, That where the Office of the Ombudsman first takes
25 cognizance of the administrative case, it shall have
26 jurisdiction over the same to the exclusion of all others:
27 Provided, further, That any decision, order or directive of
28 the Office of the Ombudsman on a case shall be a bar to the
29 filing of another case based on the same facts and on the
30 same grounds with any other disciplinary authorities and
31 vice-versa.

32 (2) The Office of the Ombudsman shall exercise

^
5

10/11/54
24/11/54

031884-11

1 disciplinary authority in administrative proceedings against
2 public officers and employees based on the following
3 grounds:

4 (a) Unjustifiably refraining from instituting prosecu-
5 tion against violators of the law.

6 (b) Tolerating the commission of offenses.

7 (c) Causing any undue injury to any party, including
8 the Government, or giving any private party any unwarranted
9 benefits, advantage or preference in the discharge of his
10 official, administrative or quasi-judicial functions through
11 manifest partiality, evident bad faith or gross inexcusable
12 negligence.

13 (d) Agreeing to perform, or performing, in
14 consideration of any offer, promise, gift or present, an act
15 constituting a crime, in connection with the performance of
16 his official duties.

17 (e) Accepting a gift in consideration of the execution
18 of an act which does not constitute a crime, in connection
19 with the performance of his official duty.

20 (f) Agreeing to refrain, or refraining from doing
21 something which is his official duty to do, in
22 consideration of a gift or promise.

23 (g) Persuading, inducing or influencing another
24 public officer to perform an act constituting a violation
25 of rules and regulations duly promulgated by competent
26 authority or an offense in connection with the official
27 duties of the latter, or allowing himself to be persuaded,
28 induced, or influenced to commit such violation or offense.

29 (h) Directly or indirectly requesting or receiving
30 any gift, present, share, percentage, or benefit, for
31 himself or for any other person, in connection with any
32 contract or transaction between the Government and any other

10/17/54
24/12/54

031844-12

1 party, wherein the public officer or employee in his
2 official capacity has to intervene under the law.

3 (i) Directly or indirectly requesting or receiving
4 any gift, present or other pecuniary or material benefit, for
5 himself or for another, from any person for whom the public
6 officer or employee, in any manner or capacity, has secured
7 license, in consideration ^{of} for the help given or to be given.

8 (j) Knowingly approving or granting any license,
9 permit, privilege or benefit in favor of any person not
10 qualified for ^{or} or not legally entitled to ^{such} license,
11 permit, privilege or advantage, or of a ^{mere} representative
12 or dummy of one who is not so qualified or entitled.

13 (k) Accepting gifts offered to him by reason of his
14 office.

15 (l) Accepting ^{or} or having any member of his family
16 accept ^{employment} in a private enterprise which has pending
17 official business with him during the pendency thereof or
18 within one year after its termination.

19 (m) Entering into an agreement with any interested
20 party or speculator ^{or} or making use of any other scheme to
21 defraud the Government, in dealing with any person with
22 regard to furnishing supplies, the making of contracts, or
23 the adjustment or settlement of accounts relating to public
24 property or funds.

25 (n) Demanding ^{directly} or indirectly, the payment
26 of sums different from or larger than those authorized by
27 law, ⁱⁿ in the collection of taxes, licenses, fees, and other
28 imposts.

29 (o) Failing voluntarily to issue a receipt, as
30 provided by law, for any sum of money collected by him
31 officially, in the collection of taxes, licenses, fees, and
32 other imposts.

10M ~~sub~~
24C-13 -

031884-13

- 1 D (p) Collecting or receiving, directly or indirectly,
- 2 by way of payment or otherwise, things or objects of a
- 3 nature different from that provided by law, in the
- 4 collection of taxes, licenses, fees, and other imposts.
- 5 (q) Entering, on behalf of the Government, into any
- 6 contract or transaction manifestly and grossly
- 7 disadvantageous to the same, whether or not the public
- 8 officer profited or will profit thereby.
- 9 (r) Committing any of the frauds or deceits
- 10 as penalized by law.
- 11 (s) Appropriating for private gain public funds or
- 12 property.
- 13 (t) Misappropriating public funds or property.
- 14 (u) Consenting or through abandonment or negligence,
- 15 permitting any other person to take such public funds
- 16 or property.
- 17 (v) Failing to render account by an accountable
- 18 public officer.
- 19 (w) Leaving the Philippines for the purpose of
- 20 residing abroad without securing from the Commission on
- 21 Audit a certificate showing that his accounts as an
- 22 accountable officer for public funds or property have been
- 23 finally settled or for the purpose of ascending from his
- 24 financial obligations to the government.
- 25 (x) Applying any public funds or property under his
- 26 administration to any public use other than that for which
- 27 such funds or property were appropriated by law or
- 28 ordinance.
- 29 (y) Failing to make payment by a public officer
- 30 or employee who is under obligation to make such payment
- 31 from government funds in his possession.
- 32 (z) Refusing to make delivery by a public officer or

*copy sent
24/11/14*

031884-14

- 1 employee who has been ordered by competent authority to
 2 deliver any property in his custody or under his administration.
- 3 *D* (aa) Neglecting or refusing, after due demand or
 4 request, without sufficient justification, to act within a
 5 reasonable time on any matter pending before him.
- 6 (bb) Consenting to the escape of a prisoner in his
 7 custody or charge.
- 8 (cc) Infidelity in the custody of prisoners or
 9 detainees or their maltreatment.
- 10 (dd) Infidelity in the custody of documents.
- 11 (ee) Unauthorized revelation of official secrets or
 12 classified documents or information.
- 13 (ff) Divulging valuable information of a confidential
 14 character, acquired by his office or by him on account of
 15 his official position, to unauthorized persons, or releasing
 16 such information in advance of its authorized release date.
- 17 (gg) Disobedience, refusal of assistance or to
 18 discharge public office.
- 19 (hh) Anticipation, prolongation, and abandonment of
 20 the duties and powers of public office.
- 21 (ii) Usurpation of powers, authorities and functions
 22 and unlawful appointments.
- 23 (jj) Abuses against chastity.
- 24 (kk) Acts of gambling contrary to law.
- 25 (ll) Ostentatious display of wealth and
 26 flagrantly conspicuous consumption.
- 27 (mm) All other acts and omissions constituting an
 28 offense committed by public officers and employees in the
 29 performance of their functions and duties punishable under
 30 other pertinent laws or which may be considered unjust,
 31 improper, inefficient or inimical to the public service.
- 32 In all cases where the complaint is based on

*10 pt sent
24/11/84*

031884-15

1 grounds under subsections (c), (j), (m) and (q) of this
2 section, the Tanodbayan may require the complainant
3 to exhaust administrative remedies under existing laws
4 and regulations before giving due course to the complaint.

5 *D* SEC. 18. Officials Subject to Disciplinary Authority;

6 Exceptions. *J* The Office of the Ombudsman shall have
7 disciplinary authority over elective and appointive
8 officials or employees of the government and its subdivisions,
9 instrumentalities and agencies, including local governments,
10 government-owned or controlled corporations and their
11 subsidiaries. Directors, trustees or representatives of the
12 private sector in government agencies and directors or
13 trustees representing the government in any corporation in
14 which it has equity interest shall also be subject to the
15 disciplinary authority of the Office of the Ombudsman.

16 In the case of Members of Congress, they shall be
17 subject to the disciplinary authority of each House in
18 accordance with their respective rules and in the case of
19 Members of the Judiciary, they shall be subject to the
20 disciplinary authority of the Supreme Court in accordance
21 with Section 11 of Article 8 of the Constitution.

22 *v* SEC. 19. Investigatory Power Over Certain Officials. *!*

23 The Office of the Ombudsman shall have the power to
24 investigate any serious misconduct in office allegedly
25 committed by officials removable by impeachment, or by the
26 Members of Congress for the purpose of initiating the
27 proper criminal or civil action or filing a verified
28 complaint for impeachment if warranted.

29 In all cases of conspiracy between an officer or
30 employee of the government and a private person, the
31 Tanodbayan and his Deputies shall have jurisdiction to
32 include such private person in the investigation and proceed

*10 p/sed
24/2/20*

031884-16

1 against such private person as the evidence may warrant.
2 The officer or employee and the private person shall be
3 tried jointly and shall be subject to the same penalties and
4 liabilities.

5 *P an* SEC. 20. Formal Investigation. *J m* (1) Formal
6 investigations conducted by the Office of the Ombudsman
7 shall be in accordance with its rules of procedure and
8 consistent with due process. The affidavits of the
9 complainants, respondents and witnesses may be used as
10 their direct testimony subject to the right of cross *A*
11 examination by any party adversely affected by them.

12 (2) At its option, the Office of the Ombudsman may
13 refer certain complaints to the proper disciplinary
14 authority for the institution of appropriate administrative
15 proceedings against erring public officers or employees,
16 which shall be terminated within the period prescribed in
17 the civil service law. Any delay without just cause in
18 acting on any referral made by the Office of the Ombudsman
19 shall be a ground for administrative action against the
20 officers or employees to whom such referrals are addressed.

21 (3) In any investigation under this Act the Ombudsman
22 may (a) enter and inspect the premises of any office,
23 agency, commission or tribunal; (b) examine and have access
24 to any book, record, file, document or paper; and (c) hold
25 private hearings with both the complaining individual and
26 the official concerned.

27 *L an* SEC. 21. Preventive Suspension. *J m* The Tanodbayan or
28 his Deputy may preventively suspend any officer or employee
29 under his authority pending an investigation, if in his
30 judgment the evidence of guilt is strong, and (a) the charge
31 against such officer or employee involves dishonesty,
32 oppression or grave misconduct or neglect in the performance

031884-17

*10pt solid
24 pm*

around

Begin

1 of duty; (b) the charges would warrant removal from the
2 service; or the respondent's continued stay in office may
3 prejudice the case filed against him.

4 The preventive suspension shall continue until the case
5 is terminated by the Office of the Ombudsman but not more
6 than ninety (90) days in cases where ^{if he} exercises
7 concurrent jurisdiction with the Civil Service Commission,
8 except when the delay in the disposition of the case by the
9 Office of the Ombudsman is due to the fault, negligence or
10 petition of the respondent, in which case the period of
11 such delay shall not be counted in computing the period
12 of suspension herein provided.

13 SEC. 22. Penalties. (1) In administrative
14 proceedings under ~~the~~ Presidential Decree No. 807,
15 the penalties and rules provided therein shall be
16 applied.

17 ^{other} (2) In administrative proceedings, the penalty ranging
18 from suspension without pay for one year to dismissal with
19 forfeiture of benefits or a fine ranging from five thousand
20 pesos (P5,000.00) to twice the amount malversed, illegally
21 taken or lost, or both at the discretion of the Tanodbayan,
22 taking into consideration circumstances that mitigate or
23 aggravate the liability of the officer or employee, shall be
24 imposed on the officer or employee found guilty of the
25 complaint or charges.

26 SEC. 23. Inquiries. (1) The Office of the Ombudsman
27 shall inquire into acts or omissions of a public officer,
28 employee, office or agency which ^{from} the reports or
29 complaints it has received ^{the} Tanodbayan or his Deputies
30 consider to be:

31 (a) contrary to law or regulation;

32 (b) unreasonable, unfair, oppressive, irregular or

*10 pt sold
24/11/18*

03/884-18

1 inconsistent with the general course of the operations and
2 functions of a public officer, employee, office or agency;

3 *D* (c) an error in the application or interpretation of
4 law, rules or regulations, or ^{*a*} gross or palpable error in the
5 appreciation of facts;

6 (d) based on improper motives or corrupt
7 considerations;

8 (e) unclear or inadequately explained when reasons
9 should have been revealed; *OR*

10 (f) inefficiently performed or otherwise
11 objectionable.

12 (2) The Office of the Ombudsman shall receive from any ^{*complaints*}
13 source ~~all complaints~~ in whatever form concerning an
14 official act or omission. It shall act on the complaint
15 immediately and if it finds the same entirely baseless, it
16 shall dismiss the same and inform the complainant of such
17 dismissal citing the reasons or grounds therefor. If it
18 finds a reasonable ground to investigate further, it shall
19 first furnish the respondent public officer or employee with
20 a summary of the complaint and require him to submit a
21 written answer within seventy-two (72) hours from receipt
22 thereof. If the answer is found satisfactory, it shall
23 dismiss the case.

24 (3) When the complaint consists in delay or refusal to
25 perform a duty required by law, or when urgent action is
26 necessary to protect or preserve the rights of the
27 complainant, the Office of the Ombudsman shall take steps or
28 measures and issue such orders directing the officer,
29 employee, office or agency concerned to:

30 (a) expedite the performance of duty;

31 (b) cease or desist from the performance of a
32 prejudicial act;

*COM solid
24 pua*

031884-19

- 1 (c) correct the omission;
- 2 (d) explain fully the administrative act in question; or
- 3 (e) take any other step as may be necessary under the
- 4 circumstances to protect and preserve the rights of the
- 5 complainant.

6 (4) Any delay or refusal to comply with the referral
 7 or directive of the Tanodbayan or any of his Deputies,
 8 shall constitute a ground for administrative disciplinary
 9 action against the officer or employee to whom it was
 10 addressed.

11 SEC. 24. Effectivity and Finality of Orders, Decisions
 12 and Appeals.

13 (1) All provisional orders of the Office of
 14 the Ombudsman are immediately effective and executory unless
 15 otherwise stated. The decision of the Ombudsman shall not
 16 become executory until after the resolution of any motion
 for reconsideration as ^{provided herein} stipulated therein.

17 (2) A motion for reconsideration of any order,
 18 directive or decision of the Office of the Ombudsman must
 19 be filed within five (5) days after notice and shall be
 20 entertained only on any of the following grounds:

21 (a) Newly discovered evidence which could not, with
 22 reasonable diligence, have been discovered and produced at
 23 the trial or hearing and which, if presented, would probably
 24 alter the result;

25 (b) Errors of law or irregularities have been
 26 committed prejudicial to the interest of the movant. The
 27 motion for reconsideration shall be resolved within three

28 (3) days from filing: Provided, That only one motion
 29 for reconsideration shall be entertained.

30 (3) Findings of fact by the Office of the Ombudsman
 31 when supported by substantial evidence are conclusive.

32 (4) In all administrative disciplinary cases, orders,

*10pt solid
24 June*

031884-20

1 directives, or decisions of the Office of the Ombudsman may
2 be appealed to the Supreme Court by filing a petition for
3 certiorari within ten (10) days from notice of the order,
4 directive or decision or denial of the motion for
5 reconsideration in accordance with Section 45 of the Rules
6 of Court.

7 *D* (5) An appeal shall not stop the order, directive or
8 decision from ^{becoming} ~~being~~ executory, and in case the penalty is
9 suspension or removal, the respondent officer or employee
10 shall be considered as having been under preventive suspen-
11 sion during the pendency of the appeal. Should the appeal be
12 resolved in his favor, he shall be entitled to
13 reinstatement without loss of seniority rights and payment
14 of all back salaries or wages with legal interest, not
15 exceeding the period of three (3) years without conditions
16 on qualifications.

17 (6) The Supreme Court shall be the sole authority which
18 can issue a writ of injunction against the Office of the
19 Ombudsman.

20 *SEC. 25* Investigation in Municipalities, Cities and
21 Provinces. Subject to availability of funds, the Office
22 of the Ombudsman may establish offices in highly
23 urbanized cities and capitals of provinces outside Metro
24 Manila under the immediate supervision of the Deputies for
25 Luzon, Visayas and Mindanao. The investigation of
26 administrative disciplinary complaints may be assigned to
27 the Deputy concerned or to a special investigator who shall
28 proceed in accordance with the rules or special instructions
29 or directives of the Office of the Ombudsman. Pending
30 investigation, the Deputy or investigator may issue such
31 orders and provisional remedies which are immediately
32 executory subject to review by the Tanodbayan. Within

10M 24P

031884-21

1 three (3) days after concluding the investigation, the
 2 Deputy or investigator shall transmit, together with the
 3 entire records of the case, his report and conclusions to
 4 the Office of the Ombudsman. Within five (5) days after
 5 receipt of said report, the Tanodbayan shall render the
 6 appropriate order, directive or decision.

7 *D* SEC. 26. Designation of Investigators and Prosecutors.

8 *L* (1) The Tanodbayan may utilize the personnel of his
 9 office and with the consent of the Department head
 10 concerned, designate or deputize any fiscal, state
 11 prosecutor or lawyer in the government service to act as
 12 special investigator or prosecutor to assist in the
 13 investigation and prosecution of certain cases: Provided,
 14 That no such fiscal, prosecutor or lawyer shall be so
 15 designated or deputized if he has a pending criminal or
 16 administrative case in the Office of the Ombudsman or in his
 17 department or office. Those designated or deputized to
 18 assist him as herein provided shall be under his supervision
 19 and control.

20 (2) The Tanodbayan and his investigators and
 21 prosecutors, whether regular members of his staff or
 22 designated by him as herein provided, shall have authority
 23 to administer oaths, to issue subpoena ad testificandum and
 24 subpoena duces tecum, to summon and compel witnesses to
 25 appear and testify under oath before them and/or to bring
 26 books, documents and other things under their control, and
 27 to secure the attendance or presence of any absent or
 28 recalcitrant witness.

29 (3) The Office of the Ombudsman shall prescribe a
 30 system of rating the efficiency, effectiveness, honesty and
 31 integrity of the investigators and prosecutors of the
 32 administrative and criminal or anti-graft cases it conducts

*10M copy of
24 p. of*

031884-22

1 on a quarterly basis, indicating therein the number of cases
2 they received, investigated, prosecuted and disposed of
3 during the quarter. An investigator or prosecutor shall
4 explain in writing to the Tanodbayan or his Deputy concerned
5 any delay in the disposition of cases assigned to him.

6 *D or* SEC. 27. Rights and Duties of Witness. (1) A person
7 required by the Tanodbayan to provide the information shall
8 be paid the same fees and travel allowances as are extended
9 to witnesses whose attendance has been required in the trial
10 courts. Upon request of the witness, the Tanodbayan shall
11 also furnish him such security for his person and his family
12 as may be warranted by the circumstances. For this purpose,
13 the Tanodbayan may call upon any police or constabulary unit
14 to provide the said security at their expense.

15 (2) A person who, with or without service or
16 compulsory process, provides oral or documentary information
17 requested by the Tanodbayan shall be accorded the same
18 privileges and immunities as are extended to witnesses in
19 the courts, and shall likewise be entitled to ^{the assistance of} be assisted
20 by counsel while being questioned.

21 (3) If a person refuses to respond to the Tanodbayan's
22 or his Deputy's subpoena, or refuses to be examined, or
23 engages in obstructive conduct, the Tanodbayan or his
24 Deputy shall issue an order directing the person to appear
25 before ^{him} [it] to show cause why he should not be punished for
26 contempt. The same proceedings shall be had, the same
27 penalties may be imposed by the Tanodbayan or his Deputy,
28 and the person charged may purge himself of the contempt as
29 in the case of a person who is cited for contempt before the
30 regular courts.

31 SEC. 28. Duty to Render Assistance to the Office of the
32 Ombudsman. Any officer or employee, with highly technical or

*10 pt school
24 p in*

031884-23

1 specialized qualifications or expertise, of any department,
 2 commission, bureau or office, subdivision, agency or
 3 instrumentality of the Government, including government-
 4 owned or controlled corporations and local governments,
 5 whose service is urgently needed by the Tanodbayan shall, with
 6 the approval of his department head, render assistance to
 7 the Office of the Ombudsman: Provided, however, That no such
 8 officer or employee may be detailed or his services required
 9 when his office or the head thereof is under investigation by
 10 the Tanodbayan or his Deputy.

11 *211* SEC. 29. Malicious Prosecution. *1* Any person who,
 12 actuated by malice or gross bad faith, files a completely
 13 unwarranted or false complaint against any government
 14 official or employee shall be punished by imprisonment of
 15 one (1) month and one (1) day to six (6) months and by a
 16 fine not exceeding five thousand pesos (P5,000.00).

17 *211* SEC. 30. Transmittal of Decision. *1* In every case
 18 where the Tanodbayan has reached a decision, conclusion or
 19 recommendation, he must put such decision, conclusion or
 20 recommendation in writing, briefly stating the finding of
 21 facts and circumstances supporting the same and the law on
 22 which it is based. He shall thereafter transmit such
 23 decision, conclusion or recommendation to the head of the
 24 department, agency or instrumentality or of the province,
 25 city or municipality concerned for the latter's immediate
 26 and necessary action. The decision, conclusion or
 27 recommendation must be personally signed by the Tanodbayan
 28 or his deputy.

29 *211* SEC. 31. Change of Unjust Laws and Regulations. *1* If
 30 the Tanodbayan believes that a law or regulation is unfair
 31 or unjust, he shall recommend to the President and to
 32 Congress the necessary changes therein or the repeal

031884-24

10 pt sold
24 pesos

1 thereof.

2 SEC. 32. Franking Privilege. All official mail
 3 matters and telegrams of the Tanedbayan addressed for
 4 delivery within the Philippines, shall be received,
 5 transmitted, and delivered free of charge: Provided, That
 6 such mail matter when addressed to private persons or non-
 7 government offices shall not exceed one hundred and twenty
 8 (120) grams. All mail matters and telegrams containing
 9 complaints to the Office of the Ombudsman shall be
 10 transmitted at the maximum charge of one peso and fifty
 11 centavos (P1.50) and ten pesos (P 10.00), respectively:
 12 Provided, That the telegram shall contain not more than one
 13 hundred and fifty (150) words: Provided, further, That the
 14 telegram is duly certified as to the sender's identity and
 15 address by a municipal judge, mayor, election registrar
 16 or a notary public of the municipality or city
 17 where the sender resides.

18 SEC. 33. Fiscal Autonomy. The Office of the Ombudsman
 19 shall enjoy fiscal autonomy. Appropriations for the Office
 20 of the Ombudsman, after approval, shall be automatic and
 21 released quarterly in full at the beginning of every quarter.

22 SEC. 34. Annual Report to the President and Congress.
 23 The Office of the Ombudsman shall render an annual report of
 24 its activities and performance including the performance
 25 rating mentioned in Section 26 hereof, to the President and
 26 to Congress to be submitted within thirty (30) days from the
 27 start of the regular session of the Congress.

28 SEC. 35. Appropriations. The appropriation for the
 29 Office of the Special Prosecutor in the 1988 General
 30 Appropriations Act is hereby transferred to the Office of
 31 the Ombudsman. Thereafter, such amount as shall be
 32 necessary shall be included in the annual General

*10 pt solid
24 pt car*

031884-25

1 Appropriations Act.

2 *D* SEC. 36. Separability Clause. *I* If any provision of
3 this Act is held unconstitutional, *m* other provisions not
4 affected thereby shall remain valid and in effect.

5 */* SEC. 37. Repealing Clause. *I* All laws, presidential
6 decrees, letters of instructions, executive orders, rules
7 and regulations insofar as they are inconsistent with this
8 Act, are hereby repealed; Provided, That the provisions of
9 this Act shall be in addition to and shall not limit or
10 affect the provisions of any other Act under which any
11 remedy, procedure or right is provided for any person for
12 the inquiry into or investigation of any matter.

13 */* SEC. 38. Effectivity. *I* This Act shall take effect
14 after fifteen (15) days following its publication in the
15 Official Gazette or in three (3) newspapers of general
16 circulation in the Philippines.

Approved,

/greg