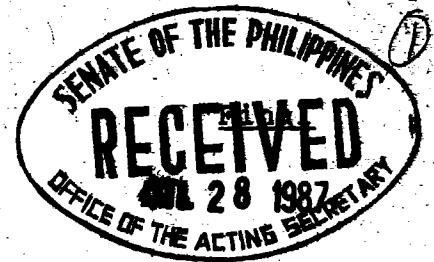


FIRST CONGRESS OF THE SIXTH REPUBLIC
OF THE PHILIPPINES

FIRST REGULAR SESSION
M E T R O M A N I L A



S. NO. 11

Introduced by Senator Teofisto Guingona, Jr.

**AN ACT
INTRODUCING REFORMS IN THE ELECTORAL SYSTEM
BY AMENDING CERTAIN SECTIONS OF THE OMNIBUS ELECTION CODE
AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

We are all familiar with the criticism of our political life, attributed to Ninoy Aquino, that elections in our country are decided primarily by the 3 Gs -- Guns, Goons and Gold.

This has been our historical experience, which was capped by the unabashed use and total abuse of might and money by the Marcoses during the martial law years.

The employment of force to influence the result of electoral contests has appreciably diminished since the revolution. The Constitutional Plebiscite and the recent national elections which, in the perception of a substantial majority of the citizenry were the most peaceful in recent memory, attests to this.

But it is in prevention of the abuse of financial resources that we have not been as successful. Our elections have been as much a contest of financial resources as a battle of issues, placing the less financially endowed candidates at a marked disadvantage. And the last elections do not seem to have been an exception.

The proposed bill thus introduces certain electoral reforms calculated to reduce election expenditures, to prevent violations of the statutory limits thereon, and to give all candidates, regardless of their financial resources, an equal chance for election.

Primarily, the bill seeks to achieve this objective by vesting the Comelec with the authority, among others, to regulate and monitor the quantity of election propaganda and the use of mass media (Sections 3 and 4), and by imposing on the Comelec the duty of initiating the holding of public fora

accessible to all candidates (Section 5) and of assuring the dissemination to each voter of each candidate's basic election propaganda (Section 7) and by limiting the posting of such propaganda to common billboards to be installed by the Comelec (Section 6).

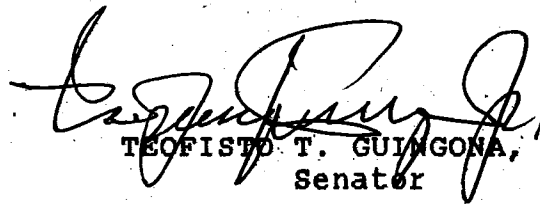
The bill also seeks to deter massive vote-buying through provisions which widen the avenues of proof and prosecution and increase the legal exposure, hazards and risks attendant to a systematic vote-buying by a candidate and his leaders.

Thus while the bill emphasizes the liability of vote-buyers, vote-sellers and co-conspirators qua principals in the election offenses, the bill nonetheless grants to those who volunteer information and testimony (Section 8 <c>) an immunity similar to that granted by PD 749 to those otherwise guilty of bribery.

Section 8 , which empowers the Comelec to compel testimony, even if self-incriminatory, further recognizes a similar immunity in favor of the compelled witness, and grants the Comelec, on its own initiative, the authority to offer and extend immunity to witnesses whose testimony may be vital in an election inquiry. These are powers similar to that vested in the Presidential Commission on Good Government under Executive Order No. 14.

Under a relaxed quantum and quality of proof, the bill further establishes a prima facie presumption of conspiracy among the leaders directly buying the votes and, under certain conditions, including the candidate himself. (Section 8 <a>).

Approval of the proposed bill is earnestly recommended.


TEOFISTO T. GUINGONA, JR.
Senator

FIRST CONGRESS OF THE SIXTH REPUBLIC
OF THE PHILIPPINES

FIRST REGULAR SESSION
M E T R O M A N I L A

SENATE BILL NO. 11

Introduced by Senator Teofisto Guingona, Jr.

AN ACT
INTRODUCING REFORMS IN THE ELECTORAL SYSTEM
BY AMENDING CERTAIN SECTIONS OF THE OMNIBUS ELECTION CODE
AND FOR OTHER PURPOSES

SECTION 1. Title. - This Act shall be known and cited as "The Electoral Reforms Law of 1987".

SEC. 2. Applicability. - The electoral reforms introduced by this Act shall govern and be applicable to the elections for local officials scheduled for November 9, 1987 and to all subsequent elections to be held thereafter.

SEC. 3. Reforms on the Use of Printed Election Propaganda.
(a) Section 84 of the Omnibus Election Code of the Philippines, Batas Pambansa Blg. 881 (hereafter referred to as the Code) is hereby amended as follows:

"SEC. 84. Requirements for [published or] printed election propaganda. -- [any newspaper, newsletter, news-weekly, gazette or magazine advertising] (a). Posters, pamphlets, circulars, handbills, bumper stickers, streamers, simple lists of candidates, sample ballots, and other [published or] printed political matter for or against a candidate or group of candidates to any public office shall bear and be identified by the words 'paid for by'

followed by the true and correct name and address of the payor and by the words 'printed by' followed by the true and correct name and address of the printer.

"(b) To ensure compliance with the provisions of this Code on the limitations on electoral expenditures, the Commission shall, after due notice and hearing where all interested parties are given an equal opportunity to be heard, promulgate rules and regulations fixing the maximum number of election propaqanda that may be printed and used in the campaign of each candidate and political party, and regulating the mode and manner of the dissemination and use thereof.

"(c) All contracts for the printing of such election propaqanda shall, before its implementation, be registered by the printer with the Commission and shall in every case bear the signature of the candidate, or his duly authorized representative or that of the political party."

(b) Section 85, paragraphs (a) of the Code is hereby amended to read as follows:

"SEC. 85. Prohibited forms of election propaqanda. --
It shall be unlawful:

,"(a) To print, publish, post or distribute any poster, pamphlet, circular, handbill or other printed election propaqanda which have not complied with the requirements of Section 84 or, in a proper case, with the requirements of Section 86, or to post, display or publicly exhibit any election propaqanda
in any place other than the common Comelec billboards

to be provided under Section 91 of this Code."

SEC. 4. Reforms on Use of Mass Media. (a) The following paragraphs of Section 86 of the Code are hereby amended to read as follows:

"Sec. 86. Regulation of election propaganda through mass media. -- (a) The Commission shall promulgate rules regarding the sale of print space and air time in mass media for partisan political purposes during the campaign period to insure that equal print space or time, as to duration, prominence and quality is available to all candidates for the same office or political parties at the same rates or given free of charge; that such rates are reasonable and not higher than those charged other buyers or users of print space or air time for non-political purposes; that the provisions of this Code regarding the limitation of expenditures by candidates and political parties and contributions by private persons, entities and institutions are effectively enforced; and to ensure that said [radio broadcasting and television stations] mass media shall not unduly [allow the scheduling of any program or permit any sponsor to] manifestly favor or oppose any candidate or political party by unduly or repeatedly referring to or including said candidate and/or political party in [such] their programs, reports or articles, respecting however, in all instances the right of said [stations] mass media to broadcast accounts of, or comment and report on significant or newsworthy events and views on

matters of public interest.

"(b) All contracts for advertising in any newspaper, [magazine, periodical or any form of publication] radio or television station or other mass media promoting or opposing the candidacy of any person for public office shall, before its implementation, be registered by said [newspaper, magazine, periodical or publication] mass media with the Commission. In every case, it shall be signed by the candidate or by the duly authorized representative of the political party.

"(c) No franchise or permit to operate a newspaper, radio or television or other mass media shall be granted or issued, suspended or cancelled during the election period.

"Any newspaper, radio or television station or other mass media, including that owned or controlled by the Government, shall give free of charge equal space, time and prominence to a candidate or an accredited political party [or its candidates] if it gives free of charge print space or air time to another candidate or another accredited political party [or its candidates] for political purposes."

(b) Section 92 of the Code is hereby amended to read as follows:

"SEC. 92. Comelec time. -- The Commission shall procure air time from radio and television [time] stations,

to be known as "Comelec Time" which shall be allocated free of charge equally and impartially among the candidates within the area of coverage of all radio and television stations.

"In the allocation of Comelec air time under this Section and of print space under Section 90 of this Code, preference and priority shall be given by the Commission, after due notice and hearing and pursuant to such guidelines and criteria as it may establish, to candidates who do not have the financial resources to defray the commercial cost of mass media propaganda utilized by or available to other candidates.

"For [this] the purposes of this Section and of Section 90 of this Code, the franchise, license and permits of all newspapers, radio and television stations and other mass media are hereby amended so as to provide print space and radio or television time, free of charge, during the period of the campaign."

SEC. 5. Reforms on Political Meetings. -- Section 87 of the Code is hereby amended by adding a second paragraph thereto, to read as follows:

"The Commission shall, during the campaign period, initiate and hold in every province, municipality, or city, by itself or through and with the assistance of any non-political, non-partisan private or civic organizations which it may authorize, public fora at which all regis-

tered candidates for the same office may simultaneously personally participate to present, explain and/or debate on their campaign platforms and programs and other like issues. The Commission shall promulgate the rules and guidelines for the holding of such fora to assure its non-partisan character and the equality of access thereto by all candidates."

SEC. 6. Reforms in the Posting of Election Propaganda. Section 91 of the Code is hereby repealed and in its place the following Section is hereby enacted:

"SEC. 91. Comelec Billboards. The campaign posters and other printed election propaganda of candidates shall be posted, displayed and exhibited only in common billboards to be installed by the Commission, after due notice and hearing, in strategic places with the heaviest pedestrian and/or vehicular traffic in the province, municipality or city. The space in such billboards shall be allocated free of charge, equally and impartially among the candidates in the province, municipality or city."

SEC. 7. Reforms in the Dissemination of Basic Election Propaganda. Section 93 of the Code is hereby repealed and in its place the following Section is hereby enacted:

"SEC. 93. Comelec Dissemination of Candidate's Basic Election Propaganda. -- The Commission shall, under such regulations it may promulgate after due hearing and subject to the payment by each candidate of such reasonable

fees as it may determine, disseminate to each registered voter one copy of each candidate's poster and handbill detailing his bio-data, qualifications, and program of government, and to this end, the Commission is hereby authorized, during the campaign period, to utilize the facilities of the postal service of the Government."

SEC. 8. Reforms on the Prosecution of Election Offenses.

-- (a) Section 261, paragraph (b) of the Code is hereby amended to read as follows:

"(b) Conspiracy to bribe voters. -- (1) Two or more persons, whether candidates or not, who come to an agreement concerning the commission of any violation of paragraph (a) of this section and decide to commit it.

"(2) Proof that at least one voter in various precincts representing at least twenty percent (20%) of the total precincts in any municipality, has been offered, promised or given money, valuable consideration or other expenditure by a candidate's relatives, leaders and/or sympathizers for the purpose of promoting the election of such candidate, shall constitute prima facie evidence against such relatives, leaders or sympathizers, of a conspiracy under this paragraph.

"(3) Where such proof affects at least twenty percent (20%) of the precincts of the municipality or province, to which the public office aspired for by the favored candidate relates, the same shall constitute prima facie evi-

dence of the involvement of such candidate and of his principal campaign managers in each of the municipalities concerned, in the conspiracy.

"(4) The presentation of a complaint supported by affidavits of witnesses attesting to an admission by voters to the affiants, of the offer or promise by or of the voters' acceptance of money or other consideration from the relatives, leaders or sympathizers of a candidate, shall be sufficient basis for an investigation to be immediately conducted by the Commission, directly or through its duly authorized legal officers, under Section 68 or Section 265 of this Code."

(b) Section 52, paragraph (d) of the Code is hereby amended by adding thereto the following paragraphs:

"In all hearings, inquiries, and proceedings of the Commission, including preliminary investigations of election offenses, no person subpoenaed to testify as a witness shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda and other records on the ground that the testimony or evidence, documentary or otherwise, required of him, may tend to incriminate him or subject him to prosecution: Provided, That no person shall be prosecuted criminally for or on account of any matter concerning which he is compelled, after having claimed the privilege against self-

incrimination, to testify and produce evidence, documentary or otherwise.

"Under such terms and conditions as it may determine, the Commission may grant immunity from criminal prosecution to any person whose testimony or whose production of documents may be required in any hearing, inquiry or proceedings conducted by it or under its authority, in the performance of its functions or in the furtherance of its constitutional and statutory objectives. The immunity granted under this and the immediately preceding paragraph shall not exempt the witness from criminal prosecution for perjury or false testimony."

(c) Section 263 of the Code is hereby amended by adding thereto the following paragraph:

"The giver, offeror, and promissor as well as the solicitor, acceptor, recipient and conspirator referred to in Section 261, Paragraphs (a) and (b) of this Code, shall all be punishable as principals: Provided, That any person, otherwise guilty under said Paragraphs, who voluntarily gives information and willingly testifies on any violation thereof in any official investigation or proceeding shall be exempt from prosecution and punishment for the offenses with reference to which his information and testimony were given: Provided further, That nothing herein shall exempt such person from criminal prosecution for perjury or false testimony."

(d) Section 68 of the Code is hereby amended to read as follows:

"SEC. 68. Disqualifications. -- Any candidate who, in an action, inquiry or protest in which he is a party is declared by final decision of a competent court of, or found by the Commission of having (a) given money or other material consideration to influence, induce or corrupt the voters or public officials performing electoral functions; (b) committed acts of terrorism to enhance his candidacy; (c) spent in his election campaign an amount in excess of that allowed by this Code; (d) solicited, received or made any contribution prohibited under Sections 89, 95, 96, 97 and 104; or (e) violated any of Sections 80, 83, 85, 86 and 261, paragraphs b, d, e, f, j, k, v and cc, subparagraph 6, shall be disqualified from continuing as a candidate, or if he has been elected, from holding the office. Any person who is a permanent resident of or an immigrant to a foreign country should not be qualified to run for any elective office under this Code, unless said person has waived his status as a permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws."

(e) The second paragraph of Section 72 of the Code is hereby amended to read as follows:

"Any candidate who has been declared by final judgment to be disqualified shall not be voted for, and the

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votes cast for his shall not be counted. [Nevertheless] If for any reason a candidate is not declared by final judgment before an election to be disqualified and he is voted for and receives the winning number of votes in such election, [his violation of the provisions of the preceding sections shall not prevent his proclamation and assumption to office] the Court or Commission shall continue with the trial and hearing of the action, inquiry or protest and, upon motion of the complainant or any intervenor, may during the pendency thereof order the suspension of the proclamation of such candidate whenever the evidence of his guilt is strong.

SEC. 9. Reforms Relating to Rights of Watchers. The Commission on Elections shall, after due notice and hearing, promulgate such rules and regulations as may be required to ensure that none of the rights and duties of watchers under Sections 178, 179, 187 and 189 of the Code are diminished or impaired and their functions and responsibilities enumerated therein as fully and effectively discharged by them.

SEC. 10. Effectivity of Regulations and Orders of the Commission. The rules and regulations hereafter promulgated by the Commission on Elections shall take effect on the seventh day after their publication in the Official Gazette or in at least two (2) daily newspapers of general circulation in the Philippines. Orders and directives issued by the Commission shall be furnished by personal delivery to all parties concern-

ed within forty-eight (48) hours from date of issuance and shall take effect immediately upon receipt, unless a later date is expressly specified in such orders or directives.

SEC. 11. Repealing Clause. Provisions of the Omnibus Election Code, Batas Pambansa Blg. 881 and other laws, decrees, orders, rules and regulations and other issuances, or parts thereof which are inconsistent with this Act are hereby deemed amended, modified, supplemented, superseded or repealed accordingly.

SEC. 12. Effectivity. This Act shall take effect upon its approval.