

JOURNAL

SESSION NO. 45
Tuesday, September 29, 1987

CALL TO ORDER

At 4:05 p.m., the Senate President, Hon. Jovito R. Salonga, called the session to order.

PRAYER

The Body observed a minute of prayer led by Senator Rasul.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate called the Roll, to which the following Senators responded:

Alvarez, H. T.	Paterno, V. T.
Angara, E. J.	Pimentel, Jr., A. Q.
Aquino, A. A.	Rasul, S. T.
Enrile, J. P.	Romulo, A. G.
Gonzales, N. A.	Saguinsag, R. A. V.
Guingona, Jr., T. T.	Salonga, J. R.
Laurel, S. H.	Shahani, L. R.
Lina, Jr., J. D.	Tamano, M. A. J.
Maceda, E. M.	Tañada, W. E.
Mercado, O. S.	Ziga, V. S.

With 20 Senators present, the Chair declared the presence of a quorum.

Senators Estrada, Manglapus and Osmeña appeared after the Roll Call.

Senator Herrera was absent.

INQUIRY OF SENATOR AQUINO

In reply to Senator Aquino's query on whether the period of 90 days has been discussed with the Department of Public Works, Senator Romulo stated that there has been coordination not only with the Department of Public Works and Highways but also with the other departments, like the Department of Health, Department of Local Governments, the LWUA and the MWSS, which is why the DPWH has expressed its ability to comply within or even before the expiration of the 90-day period.

APPROVAL OF PROPOSED SENATE
RESOLUTION NO. 32

On motion of Senator Mercado, there being no objection, the Body approved Proposed Senate Resolution No. 32.

CONSIDERATION OF COMMITTEE
REPORT NO. 23 ON SENATE BILL NO. 113

On motion of Senator Mercado, there being no objection, the Body proceeded to the consideration of Committee Report No. 23, jointly submitted by the Committee on Electoral Reforms and People's Participation and the Committee on Local Government on Senate Bill No. 113, entitled:

AN ACT PROVIDING FOR ADDITIONAL RULES GOVERNING
THE CONDUCT OF THE FIRST LOCAL ELECTIONS
AFTER THE ADOPTION OF THE CONSTITUTION

Sponsors: Senators Gonzales, Guingona, Jr., Pimentel, Jr.,
Saguisag and Estrada

The Chair recognized Senator Gonzales for the sponsorship.

SPONSORSHIP SPEECH OF SENATOR GONZALES

Senator Gonzales stated that the Committee on Electoral Reforms and People's Participation had earlier submitted Committee Report No. 21 on Senate Bill No. 11, authored by

Senator Guingona, entitled "An Act introducing reforms in the electoral system by amending certain sections of the Omnibus Election Code and for other purposes".

At this juncture, Senator Guingona stated for the record that Senate Bill No. 11 under Committee Report No. 21 was previously filed and set for prior consideration. However, he yielded to the request of the Majority Floor Leader to consider Committee Report No. 23 ahead on the understanding that he would confer with Senator Gonzales for a compromise when Section 10 of Senate Bill No. 113, which has overlapping provisions with Section 8 of Senate Bill No. 11, would be considered.

Senator Gonzales confirmed the understanding.

Senator Gonzales explained that the two committee reports were submitted on bills with the similar purpose of introducing electoral reforms because Senate Bill No. 11 seeks to introduce electoral reforms which, if approved, would become part of the Omnibus Election Code applicable to all future elections and plebiscites while the proposed reforms under Senate Bill No. 113 would apply only to the first local elections to be held after the ratification of the Constitution.

He expressed the hope, however, that should the reforms proposed in Senate Bill No. 113 prove to be good and workable in the first local elections, they could be incorporated into the Omnibus Election Code.

Senator Gonzales also pointed out that while Senate Bill No. 92, which the Body had approved, had reset the local elections from November 9, 1987 to January 18, 1988, there

are certain rules and details which must be approved to ensure orderly, peaceful, honest and credible local elections. He expressed the hope, however, that the Body would also approve Senate Bill No. 11 in time for implementation in the same first local elections.

Senator Gonzales then elaborated on the salient features of the measure, to wit:

On Section 1. - It states a general proposition that the pertinent provisions of Batas Pambansa Blg. 881, otherwise known as the Omnibus Election Code of the Philippines, and other election laws not inconsistent with the provisions of this bill shall apply to the conduct of the first local election after the adoption of the Constitution as may be provided by law.

On Section 2. - It determines the issue of whether or not the voters in highly urbanized cities and component cities shall vote or shall not vote in the election of provincial officials.

It provides that the registered voters of a highly urbanized city shall not vote in the election for provincial officials of the province in which it is located: Provided, however, that no component city shall be declared or classified as a highly urbanized city within sixty (60) days prior to a local election.

The registered voters of a component city shall be entitled to vote in the election for provincial officials of the province of which it is a part.

A highly urbanized city is independent of the province where it is located. This is specifically provided in Section 12, Article X of the Constitution which states that cities that are highly urbanized shall be independent of the province. There are absolutely no political or administrative ties between a highly urbanized city and a province and because they are, under the Constitution,

to be considered separate or independent of the province, there is no reason why the voters therein should be allowed to participate in the election of the provincial officials.

On the other hand, the voters of component cities, within a province whose charters contain no such provision, shall not be deprived of their right to vote for elective provincial officials. While a component city is a separate political entity, it may, however, have some administrative relations with the province. This is why the provincial government exercises a certain degree of supervision over component cities.

On Section 3. - Section 69 of Batas Pambansa Blg. 881 defines who is a nuisance candidate but does not provide for a procedure to be provided when the certificate of a candidate is sought to be annulled on such ground. This void in the Omnibus Election Law is being supplied by Section 3 which provides for the formalities and procedure. The procedure provided is summary because there is no sufficient time to go into a long and protracted proceeding because the issue must be determined as soon as possible to avoid repetitions of cases which had adversely affected the interest of legitimate candidates.

The section also introduces an innovation to the election law by providing that any decision, order or ruling of the Commission shall be final and executory, after five days from receipt of a copy thereof by the parties, unless stayed by the Supreme Court. This will not deny the party the right to appeal to the Supreme Court or deny the Supreme Court, itself, of its constitutional power to review by means of certiorari any decision of the COMELEC.

Section 3 also seeks to prevent a repetition of the incident involving senatorial candidate Augusto Sanchez, wherein the COMELEC did not immediately disseminate the decision disqualifying the candidacy of a certain Gil Sanchez.

Adverting to his own experience, Senator Gonzales stated that after a hearing, the COMELEC rendered a decision declaring Roberto Gonzales as a nuisance candidate but Mr. Gonzales appealed on certiorari to the Supreme Court which affirmed in toto the decision of the COMELEC, although this decision came out only on May 7, 1987. He stated that when he requested COMELEC to disseminate its decision, as affirmed by the Supreme Court, it sent telegrams to the provincial supervisors instructing them to implement the decision but some of these supervisors did not want to do so because they wanted to verify the telegram's authenticity. Thinking this was insufficient, Senator Gonzales also requested the COMELEC to send telegrams directly to the Municipal and City Election Registrars requiring them to disseminate the contents of the telegram to the members of the Board of Election Inspectors but very few of them complied. He observed that although COMELEC did oblige, he had to bear personally the expenses of sending the telegrams.

He clarified that the provision will lay upon COMELEC the obligation to disseminate its decision without delay.

Continuing with the other salient features of the bill, Senator Gonzales explained:

On Section 4. - The section had been lifted mainly from a bill filed by Senator Saguisag which seeks to penalize the act of being a nuisance candidate subject to the penalty provided in Section 264 of the same Code. With this provision, it is hoped that only legitimate and bona fide candidates for public offices shall file their certificates of candidacy.

On Section 5. - Section 78 of Batas Pambansa Blg. 881 does not provide a procedure, therefore, Section 5 would now provide for such a procedure to be followed on petitions to deny due course to or cancel a certificate of candidacy as provided in Section 78 of Batas Pambansa Blg. 881.

On Section 6. - One of the major complaints in the election was that the rights and duties of official watchers were not clearly spelled out or were either inadequate or ineffectual to protect the interests of their respective candidates. This Section seeks to correct this situation by providing that every registered political party, coalition of political parties and every candidate, independent or not, shall each be entitled to one watcher in every polling place.

Another complaint involved the requirements for accreditation of watchers by COMELEC which required every watcher, although he already possesses a duly signed appointment as a watcher, to obtain accreditation from the COMELEC, which recognition, in many instances, came late.

Another defect which the Section seeks to correct is the inability of watchers as what occurred during the last election to discharge their election duties. Under the

provision, a duly signed appointment of a watcher entitles him/her to recognition by the Board of Inspectors and to discharge his duties in this capacity, provided that only one watcher of each of those authorized to appoint them stays at one time inside the polling place.

Section 178 of Batas Pambansa Blg. 881 enumerates the rights and duties of official watchers. The second paragraph of Section 5 gives additional right to the watcher under which the official watchers of the candidate who obtained the highest and second highest number of votes respectively shall affix their signatures and thumbmarks on the election returns for particular precincts. Should they be unavailable or unwilling to do so, any watcher present may then be required by the Board of Election Inspectors to affix their signatures which facts shall be entered in the minutes of the voting.

On Section 7. - Section 19 of Batas Pambansa Blg. 881 lists certain preliminary acts before the voting to be performed by the members of the Board of Election Inspectors. This Section provides an additional preliminary act under which the Chairman and Poll Clerk shall affix their signatures at the back of each and every official ballot to be used during the voting and a certification to this effect must be entered in the minutes of the voting. This is an added guarantee to ensure that the ballots to be used are not spurious or substituted ballots.

On Section 8. - Under Section 164 of Batas Pambansa Blg. 881, the Board of Election Inspectors is composed of a Chairman, a public school teacher, and two members who are representatives of the ruling

party or the dominant opposition party and a poll clerk. Batas Pambansa Blg. 881 was approved in 1981 at a time when the 1973 Constitution had been amended allowing party representation in the Board of Election Inspectors, which practice is now prohibited by the 1987 Constitution.

Under this Section, the Board of Election Inspectors to be constituted by the COMELEC, pursuant to Section 164 of Batas Pambansa Blg. 881, shall be composed of a Chairman, two members and a poll clerk, all of whom are public school teachers.

On Section 9.- This is a new provision requiring the Commission on Elections to print in the official list of candidates, election returns and tally boards for every political subdivision concerned, the names of all registered candidates followed by the nickname or stage name duly registered in their certificates of candidacy to avoid a repetition of the cases of congressional candidate Maita Gomez and senatorial candidate Ramon Revilla in the last elections.

On Section 10.- The Committee Report followed the same provision of the Omnibus Election Code which provides that the election returns shall be prepared in sextuplicate to be distributed as follows: the original copy shall be delivered to the city or municipal board of canvassers; the second copy to the election registrar of the city or municipality for transmittal to the provincial board of canvassers; the third copy to the election registrar for transmittal to the COMELEC; the fourth copy shall be deposited in the compartment of the ballot box for valid ballots.

The fifth copy, which originally together with the sixth copy, had to be delivered to the representatives of the ruling party and the opposition party, shall under the proposal, be delivered to the municipal treasurer who, in the presence of the municipal election registrar or his authorized representative, shall immediately open the same and post the votes therein in an election board sufficiently large to enable the public to read them, thus, it is called advanced election returns. This serves as a deterrent to the tampering of election returns during the canvass by the board of canvassers.

The sixth copy will be delivered to the municipal trial judge or municipal circuit trial judge, as the case may be, for safekeeping which may be opened during the canvass upon order of the board of canvassers for purposes of comparison with other copies of the returns the authenticity of which is in question.

Senator Estrada's suggestion that the fifth and sixth copies be given to the official watcher of the candidates for mayor who has obtained the highest and the second highest number of votes in a particular polling place, could be considered later.

Additionally, the municipal treasurer shall issue a certified copy of any election returns in his possession upon request of any interested party and payment of the fees required by existing ordinances.

On Section 11.- There is need to change the provision of the Omnibus Election Code on the matter of the board of canvassers in view of the constitutional provision,

therefore, there shall be a board of canvassers for each province, city and municipality composed of members indicated under this section for provincial, city and municipal boards as well as for the cities specifically provided including chartered cities with more than one representative district.

The proceedings of the board of canvassers shall be made public and it is the stand of the Committee that the best safeguard against any monkey business in the conduct of the elections would be the publicity of the proceedings.

On Section 12.- The right to be present and to counsel during the canvass is expressly recognized in that any registered political party, coalition of parties through their representatives, and any candidate has the right to examine the returns being canvassed, make their observations thereon, and file their challenges in accordance with the rules and regulations of the Commission.

On Section 13.- The members of the board of election inspectors, the support personnel from the Department of Education, Culture and Sports, the school supervisors and other school personnel and officials who are required by the Commission on Elections to perform election duties will receive a uniform per diem of P100 for every registration day and on election day, payable from the funds appropriated for the Commission. Additional appropriation for this purpose is not necessary because Senate Bill No. 927 increased the appropriation for the Commission from P200 million to P220 million.

On Sections 14, 15 and 16.- Realizing that there are certain details needed that cannot be foreseen and cannot be momentarily provided, the Commission on Elections is given rule-making power under this Section followed by a repealing provision under Section 15, and an effectivity provision under Section 16.

Thereupon, Senator Gonzales appealed for the immediate approval of Senate Bill No. 113 so that it can be transmitted to the House of Representatives for consideration and in order that the Commission on Elections may have time to put the changes in place for the local elections set for January 18, 1988.

SUSPENSION OF SESSION

On motion of Senator Mercado, the Chair suspended the session.

It was 5:41 p.m.

RESUMPTION OF SESSION

At 5:59 p.m., the session was resumed.

The Chair stated that the Body would enter the Period of Interpellations.

INTERPELLATION OF SENATOR MACEDA

Senator Maceda manifested that as a member of the Committee on Local Government, he had signed Committee Report No. 23.

Thereafter, in reply to his query, Senator Gonzales confirmed that Senate Bill No. 113, if enacted into law,

would apply to the first local elections and, unless incorporated by subsequent statutes, would then pass out of existence.

On Senator Maceda's observation that quite a few of the provisions could well have permanent application, Senator Gonzales stated that while they would only apply to the first local elections, the Committee on Electoral Reforms and People's Participation intends to present a truly Revised Election Code which could incorporate the workable provisions, however, this project would come later.

On the per diems of election inspectors, Senator Maceda recalled that in the last elections the President had authorized the payment of ₱200, in reply to which, Senator Gonzales stated that he would again check on the figure and promised to make the correction should the ₱100 provided in the bill turn out to be a typographical error.

On Section 11, in reply to Senator Maceda's suggestion to restore the two slots formerly reserved for the ruling party and the dominant opposition party in the board of canvassers and to fill them up with members from the IBP, Lions, Rotary or similar civic organizations who are less politicized than local officials who are usually under the strong influence of the incumbent local executives, Senator Gonzales stated that the proposal would be considered at the proper time although he observed that some IBP members are also highly involved in politics and that he was not too sure of the existence of private organizations in far-flung areas.

SUSPENSION OF CONSIDERATION OF
COMMITTEE REPORT NO. 23 ON
SENATE BILL NO. 113

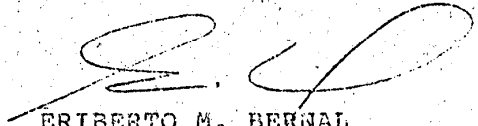
On motion of Senator Mercado, there being no objection,
the Body suspended consideration of Committee Report No. 23
on Senate Bill No. 113.

ADJOURNMENT OF SESSION

On motion of Senator Mercado, there being no objection,
the Chair declared the session adjourned until four o'clock
in the afternoon of the following day.

It was 6:14 p.m.

I hereby certify to the correctness of the foregoing.


ERIBERTO M. BERNAL
Secretary of the Senate

CONGRESS OF THE PHILIPPINES
SENATE
RECORDS AND ARCHIVES DIVISION

CP-Senate

Journal

46

FIRST REGULAR SESSION

JOURNAL

SESSION NO. 46

Wednesday, September 30, 1987

CALL TO ORDER

At 4:04 p.m., the Senate President, Hon. Jovito R. Salonga, called the session to order.

PRAYER

The Body observed a minute of prayer led by Senator Romulo.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate called the Roll, to which the following Senators responded:

Angara, E. J.	Osmeña, J. H.
Aquino, A. A.	Paterno, V. T.
Estrada, E. J.	Pimentel, Jr., A. Q.
Enrile, J. P.	Rasul, S. T.
Gonzales, N. A.	Romulo, A. G.
Guingona, Jr., T. T.	Saguisag, R. A. V.
Herrera, E. F.	Salonga, J. R.
Laurel, S. H.	Shahani, L. R.
Lina, Jr., J. D.	Tañada, W. E.
Maceda, E. M.	Ziga, V. S.
Mercado, O. S.	

With 21 Senators present, the Chair declared the presence of a quorum.

Senators Alvarez and Manglapus were on official mission.

Senator Tamano was absent.

APPROVAL OF THE JOURNAL

On motion of Senator Mercado, there being no objection, the Body dispensed with the reading of the Journal of the previous session and considered the same approved.

REFERENCE OF BUSINESS

The Secretary of the Senate read, and the Chair referred the following matters to the Committees hereunder indicated:

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

Message from the House of Representatives informing the Senate that it requests a conference on House Concurrent Resolution No. 3, entitled:

CONCURRENT RESOLUTION
PROVIDING FOR A LEGISLATIVE CALENDAR FOR THE SENATE
AND HOUSE OF REPRESENTATIVES COVERING THEIR FIRST
REGULAR SESSION

and Senate Concurrent Resolution No. 7, entitled:

CONCURRENT RESOLUTION
PROVIDING FOR A LEGISLATIVE CALENDAR FOR THE CONGRESS
OF THE PHILIPPINES FOR ITS FIRST REGULAR SESSION,

which were passed by the House of Representatives and the Senate, respectively, and that it has designated Congressmen Antonio V. Cuenco, Victorico L. Chaves and Victor F. Ortega as its conferees.

TO THE COMMITTEE ON RULES

BILLS ON FIRST READING

S. No. 120, entitled:

AN ACT TO PROMOTE AND DEVELOP THE SEED INDUSTRY IN THE
PHILIPPINES AND CREATE A NATIONAL SEED INDUSTRY
COUNCIL AND FOR OTHER PURPOSES

Introduced by Senator Laurel

TO THE COMMITTEES ON AGRICULTURE AND FOOD; AND FINANCE

S. No. 121, entitled:

AN ACT TO ABOLISH THE ONE AIRLINE POLICY IN THE
DOMESTIC SERVICE, REPEALING AND REVOKING FOR
THE PURPOSE LETTER OF INSTRUCTIONS NO. 151
DATED DECEMBER 7, 1973 AND FOR OTHER PURPOSES

Introduced by Senator Maceda

TO THE COMMITTEE ON PUBLIC SERVICES

RESOLUTION

P. S. Res. No. 36, entitled:

RESOLUTION URGING THE APPROPRIATE SENATE COMMITTEE
TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLA-
TION ON THE PREVENTION OF AIDS (ACQUIRED IMMUNE
DEFICIENCY SYNDROME)

Introduced by Senator Lina, Jr.

TO THE COMMITTEE ON HEALTH

UNFINISHED BUSINESS: C.R. NO. 23
ON S. NO. 113

On motion of Senator Mercado, the Body resumed
consideration of Committee Report No. 23 on Senate Bill No.
113, entitled:

AN ACT PROVIDING FOR ADDITIONAL RULES GOVERNING
THE CONDUCT OF THE FIRST LOCAL ELECTIONS AFTER THE
ADOPTION OF THE CONSTITUTION

The Chair recognized Senator Gonzales, sponsor of the
measure.

Senator Mercado stated that the parliamentary status
would be the continuation of the Period of Interpellations.

INTERPELLATION OF SENATOR OSMEÑA

In reply to Senator Osmeña's query, Senator Gonzales
stated that under the Local Government Code cities are
classified into highly urbanized and component cities on the
basis, among others, of population and revenue.

Senator Osmeña then adverted to Section 168 of the said
Code which provides that it shall be the duty of the Minister
(now Secretary) of Local Government to declare a city highly
urbanized within thirty days after it shall have met the
minimum requirements prescribed in Section 166 thereof. He
then inquired why the bill provides that no component city

shall be classified as a highly urbanized city within 60 days prior to the local election.

In reply, Senator Gonzales explained that the provision is designed to prevent confusion that may ensue from a shorter period of thirty days. For instance, he cited the fact that under S. Bill No. 92, which the Body had approved on third reading, the certificate of candidacy for a local elective office must be filed 45 days before the election so that there would be^m chaos and dislocations if after the candidate shall have complied with the deadline, the component city in which he is running for office is classified as a highly urbanized city. He affirmed that the provision would suspend the effectivity of Section 168 of the Local Government Code only for the purpose of the local elections to be held, otherwise, the provisions of the Code would apply.

Senator Osmeña noted that the second paragraph of Section 2 provides that the registered voters of a component city shall be entitled to vote in the election for provincial officials in the province of which it is part, whereas, Section 12, Article X of the Constitution provides that "cities that are highly urbanized, as determined by law, and component cities whose charters prohibit their voters from voting for provincial elective officials, shall be independent of the province." In view thereof, he inquired whether the bill intends to amend the charters of component cities which bar their electorate from voting for provincial elective officials, to which Senator Gonzales replied that it is indeed the intention, adding that the Committee intends to propose during the period of amendments that Section 2 shall

govern, any existing provision of law to the contrary notwithstanding. He explained that the purpose is to adopt a uniform rule because for political reasons some charters of component cities prohibit the registered voters from voting for elective provincial officials while others allow it; and there are also highly urbanized cities whose charters allow their registered voters to vote in provincial elections while others provide otherwise. He opined that the registered voters of highly urbanized cities should not be allowed to participate in the election of provincial officials because there is no political or administrative relation whatsoever between a highly urbanized city and the province in which it is located. However, he pointed out that component cities are so called because they are considered part of the provinces where they are located and under the Local Government Code, the provincial governor exercises authority over them no matter how insignificant it may be.

On Section 3 regarding nuisance candidates, Senator Osmeña queried whether Senator Gonzales would be amenable to a proposal, in the period of amendments, prohibiting the acceptance of mailed certificates of candidacy so that all certificates of candidacy must be filed directly with the city election registrar in the case of component or highly urbanized cities, and with the provincial election registrar in the case of candidates running for provincial elective positions or municipal elective positions. He adverted to the clause "within five days from the last day for the filing of certificates of candidacy" on page 2, line 2 of the bill which, he pointed out, could give rise to the possibility

that, without the election registrar knowing it, a certificate of candidacy may be mailed.

In reply, Senator Gonzales stated that the bill contains no provision on the filing of the certificate of candidacy but if Senator Osmeña would insist on such a provision, he could propose an amendment to Section 75 of the Omnibus Election Code, or the amendment could be added later on in the bill.

On paragraphs 3 and 4 of Section 3, in reply to Senator Osmeña's query whether it is 20 days that the bill provides from the date of filing of the certificate of candidacy to contest the candidacy as a nuisance, Senator Gonzales stated that 20 to 25 days would be a sufficient period for any party adversely affected by the ruling of the Commission on Elections (COMELEC) to bring his case to the Supreme Court, hence, the 45-day campaign period from the deadline of the filing of the certificate of candidacy would be sufficient for such controversies to be settled before election day.

Senator Osmeña contended that the 45-day campaign period is too short. He pointed out that "after five days from receipt of a copy thereof by the parties" may mean forever especially if the decision is mailed, in reply to which, Senator Gonzales opined that the period could still be shortened considering that the purpose is speedy disposition of all such cases. He pointed out that candidates with similar surnames not only confuse the voters but also affect the candidates. He reiterated his willingness to accept an amendment that would shorten the period without depriving any party of his day in court.

On Section 6, Senator Gonzales explained that a political party or a candidate would be allowed only one official watcher inside a precinct at a time because too many watchers would crowd the polling place and could make the proceedings of the board of canvassers disorderly.

On Senator Osmeña's query as to who will be allowed inside the polling place, as between the watcher appointed by the candidate and the watcher appointed by his political party, Senator Gonzales stated that both would be allowed because a candidate may feel that his interest would not be adequately protected by the watcher of his party. However, he is considering the idea that candidates for councilors belonging to one party may be collectively represented by only one official watcher.

INTERPELLATION OF SENATOR RASUL

In reply to Senator Rasul's observation that Senate Bill No. 113 does not provide for additional rules governing the registration of voters, Senator Gonzales pointed out that Senate Bill No. 92, which was approved on third reading, already provides for a special registration day on November 28, 1987. Additionally, he stated that Batas Pambansa Blg. 891, the Omnibus Election Code, and all other pertinent election laws not inconsistent with the bill, shall govern the conduct of local elections.

Specifically, he pointed out that the Omnibus Election Code contains adequate safeguards to ensure the integrity of registration, namely, the provisions on the requirement to

publish the list of voters (Sec. 136); the right to challenge registration (Sec. 137); the power of the board of election inspectors to administer oaths and issue summons (Sec. 138); inclusion and exclusion proceedings (Sec. 139-143); conduct of verification by the election registrar of the registered voters (Sec. 144); the annulment of permanent list of voters which was irregularly prepared, among others.

As to how the provisions may be properly implemented, Senator Gonzales stated that Congress can only enact the laws that would apply to foreseen circumstances and implementation is beyond its powers, however, it can refer any misconduct amounting to election offenses to the appropriate agencies.

On whether penalties are provided for violation of the election laws, Senator Gonzales pointed out that the election offenses are defined in Article XXII of the Omnibus Election Code of which Section 264 provides for penalties, namely, imprisonment of not less than one year but not more than six years which shall not be subject to probation; disqualification from holding public office and deprivation of the right of suffrage; or if the violator is a foreigner, deportation after the prison term has been served; or in the case of a political party, a fine of not less than ₱10,000 which shall be imposed after criminal action has been instituted.

Upon inquiry, he stated that he was not aware of any politician or political personality who was imprisoned for election offense and observed that such provisions are more violated than observed. He reiterated that it is beyond the

power of Congress to implement the laws and it can only condemn violations or refer them to the appropriate agencies.

Senator Rasul observed that Senate Bill No. 113 is more concerned of the candidates and the voters. She suggested the imposition of stronger penalties on officials or persons responsible for the implementation and conduct of elections as a deterrent against election irregularities, in reply to which Senator Gonzales stated that the Omnibus Election Code provides for sufficient penalties. He opined that the additional penalties of disqualification from holding public office and deprivation of the right of suffrage are more harsh than imprisonment.

INTERPELLATION OF SENATOR SAGUISAG

Senator Saguisag observed that Section 4 as worded can be interpreted that a nuisance candidate may be imposed the penalty provided for in Section 264 of the Omnibus Election Code. He stated that in a democracy, one has the right, if he feels he has a chance, to "fly with the wings of fantasy". In view thereof, he inquired whether Senator Gonzales would consider an amendment that the penalty should apply only to a nuisance candidate who, having been so declared by a final and executory judgment, persists and continues to deceive the public that he is a candidate.

In reply, Senator Gonzales acknowledged that Section 4 was the consequence of a misapprehension of Senator Saguisag's bill which penalizes nuisance candidacy, for which reason, he would be willing to accommodate the proposal at the proper time. However, he explained that the

determination whether or not one is a nuisance candidate should not be from the viewpoint of the candidate alone but also from the viewpoint of the people and the candidate or candidates who are adversely affected by such nuisance candidacy. He stressed that in order that one may be considered a nuisance candidate, it must be proven that the certificate of candidacy was filed to make a mockery of the election, or place it in disrepute or cause confusion among the voters. There must be other circumstances or acts demonstrating that the candidate has no bona fide intention to run for the office for which the certificate of candidacy was filed, thus preventing a faithful determination of the true will of the electorate. He stressed that the act would seriously affect the electoral process, is against the very purity of suffrage and is, therefore, a sufficient basis or justification for declaring the act an offense.

Senator Saguisag clarified that his bill was not so much concerned with nuisance candidacy as with a disqualified candidacy. He expressed confidence that the understanding would be confirmed that Section 4 of the bill would be expanded to include the case of a disqualified candidate who, despite a formal disqualification, continues to misrepresent himself, in reply to which Senator Gonzales stated that the proposed amendment would be accepted at the proper time.

On another point, Senator Saguisag noted the prevailing tendency to increase the penalties everytime there is a breakdown in law. He opined that what actually deters people is not the gravity of the penalty but the swiftness and certainty of punishment. He agreed with Senator Gonzales'

observation that disqualification from public office is, to a public official, some kind of a capital penalty in itself.

Replying thereto, Senator Gonzales agreed that when one speaks of punishment, it is always associated with imprisonment. He believed that the accessory penalties like permanent disqualification from holding public office and deprivation of the right of suffrage, are things which cannot be measured in terms of period which one spends in jail.

INTERPELLATION OF SENATOR ESTRADA

On Section 6, replying to Senator Estrada's suggestion, Senator Gonzales agreed to insert "and the second highest" between the words "highest" and "number" on page 3, line 20, in order to reflect the real intent of the provision as suggested by Senator Estrada during the Committee deliberations.

Also in the same section, on the suggestion to insert between lines 23 and 24 the words "the watcher of the candidate obtaining the next succeeding highest number of votes", Senator Gonzales replied that it could be done although it is the intent of the provision to meet contingencies when, for one reason or another, the official watchers who are supposed to sign the election returns are not present in the precincts or they refuse to sign. He stressed that the provision seeks to facilitate the canvass proceedings and the preparation of election returns which may not be achieved by Senator Estrada's suggestion in the sense that it could be time-consuming to determine who is ranked next and to find the watcher concerned.

On Section 3(5), page 2, line 24, Senator Gonzales agreed to Senator Estrada's suggestion to insert after "Election" the words "upon receipt of the final and executory decision or order of the Supreme Court", adding that it should really be a final decision in order not to deprive any party of his right to appeal to the Supreme Court.

On the definition of a nuisance candidate, Senator Gonzales stated that reference was made to Section 69 of Batas Pambansa Blg. 881 in order to avoid repetition.

INTERPELLATION OF SENATOR ENRILE

On page 3, replying to Senator Enrile's inquiry whether he would accept an amendment to clarify the proviso appearing on lines 14 to 16 which seems to suggest that more than one watcher could be appointed by the parties who are entitled to make the appointment despite the fact that only one is allowed inside the polling place, Senator Gonzales explained that under the proposed section, every registered political party, coalition of political parties and every candidate can appoint only one watcher in every polling place. However, on the observation that the proviso is redundant, Senator Gonzales manifested willingness to consider any proposal that would clarify the legislative intent.

On Section 8, on the purpose of the phrase "giving preference to those with permanent appointments" considering that the government, after all, can give permanent appointments to all the teachers who would serve during the elections, Senator Gonzales explained that one who holds a permanent appointment enjoys a security of tenure which is not enjoyed by one holding a temporary appointment.

Senator Enrile observed that the term "giving preference" suggests that the one appointing the teachers who will serve as members of the board of election inspectors has the discretion to choose between public school teachers who are permanent appointees and those who are not, in which case, the appointing authority, for certain reasons, might appoint people with temporary appointments. In view thereof, he suggested the deletion of the phrase "giving preference to those".

Replying thereto, Senator Gonzales pointed out that in many instances, there were not enough public school teachers with permanent appointments and those available only hold temporary appointments. He agreed, however, that the matter could be discussed at the proper time.

INTERPELLATION OF SENATOR LAUREL

In reply to the query of Senator Laurel on whether the constitutional mandate prohibiting political dynasties should be contained in the proposed measure, Senator Gonzales explained that there are two bills dealing with the elections, a bill authored by Senator Guingona proposing electoral reforms in the nature of amendments to the Omnibus Election Code, and Senate Bill No. 113 under consideration which merely provides additional rules governing the conduct of the first local elections after the adoption of the Constitution. He pointed out that the authors of Senate Bill No. 113 did not see fit to include the anti-dynasty provision because as proposed in the bill authored by Senator Guingona, it would have a permanent character, which hopefully would also be approved in time for the local elections.

Senator Laurel informed the Body that he has filed a bill on kinship disclosure under which a candidate for an elective office would have to disclose under oath his relationship within the third to fourth degree of affinity or consanguinity with any public official, elected or appointed, for the people to know that he is related to a member or members of a family already in the government. He affirmed that the purpose of Senate Bill No. 45 is not to ban relatives but merely to disclose to the people and allow them to make the choice after knowing the relationship.

Senator Gonzales stated that bills of such nature assume a permanent character which shall be applicable not only to one election but also to subsequent elections.

On Senator Laurel's suggestion to include the disclosure provision in Section 9 of the proposed measure, Senator Gonzales stated that the matter could be discussed with Senator Guingona whose bill also contains the anti-dynasty provision.

Senator Laurel explained that his bill merely seeks to let the candidate disclose his relationship with people in the government so that the electorate may be informed of the candidate's kinship, while the bill of Senator Guingona prohibits political dynasty, in reply to which Senator Gonzales stated that it may also work the other way because the people may vote for a candidate upon knowing that he is a relative of a recognized political personality, thus defeating the anti-dynasty provision.

Senator Laurel pointed out, however, that it is already the responsibility of the electorate that a candidate is elected despite their knowledge of his relationship with somebody already in government.

In reply, Senator Gonzales stated that, such being the intention, it would require two documents, namely, 1) a verified statement of the candidate himself enumerating his relatives within the fourth degree of consanguinity or affinity; and 2) a document to be published by the Commission on Elections listing the candidates and their respective relatives.

Senator Laurel stated that his bill seeks to get a disclosure from candidates in a sworn statement which shall be filed with the Commission on Audit and the Commission on Elections, to which Senator Gonzales replied that the Committee still has to find the proper place for it and, if necessary, create a new section therefor.

POINT OF INFORMATION OF SENATOR SAGUISAG

At this juncture, Senator Saguisag informed the Body that the Committee on Ethics and Privileges had just deliberated upon Senator Laurel's bill together with S. Nos. 104 and 345 as part of the consolidated bill on ethical standards, which may be reported out next week. He pointed out that the Committee adopted the provision requiring all candidates to disclose their relatives within the affected degrees.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 5:18 p.m.

RESUMPTION OF SESSION

At 5:39 p.m., the session was resumed.

INTERPELLATION OF SENATOR MACEDA

Adverting to Section 12, Article X of the Constitution upon which Section 2 of the proposed bill is based, Senator Maceda inquired if a uniform provision can be adopted which will either allow registered voters in all highly urbanized cities to vote for provincial elective officials or disallow them, considering that the constitutional provision is not clear or absolute.

Senator Gonzales, in reply, stated that the Committee is precisely recommending the setting up of a clear standard. He observed that there are indeed differences between a highly urbanized city and a component city and the Constitution itself provides that a highly urbanized city is separate from the province within which it is located and therefore, no relationship exists between these two either politically or administratively for which reason he cannot see why the registered voters thereof should be allowed to vote for provincial elective officials. On the other hand, he noted that there are too many small component cities which have direct relationship with the provinces where they are located, in which case, the Local Government Code allows the governors of the provinces to exercise supervision over them and therefore, there is reason for the registered voters thereof to be allowed to vote for provincial elective officials.

With respect to the second sentence of Section 12, Article X, Senator Maceda noted a limitation in the phrase

"whose charter contains no such prohibition" which can actually deprive the registered voters of a component city the right to vote if such a prohibition is later on placed in the city charter. Likewise, he drew attention to the first part of the same provision which states "whose charters prohibit the voters from voting for provincial elective officials" in which there can be a case of discrimination. He observed that the right to vote is merely based on the charter which, in the past, could easily be passed through a local bill filed by the Congressman of the province in which the city is located.

Senator Gonzales clarified that Section 2 of S. Bill 113 has one policy which he would be willing to submit to a constitutional test. He opined that Section 12, Article X of the Constitution does not prohibit Congress from amending this specific provision because it only assures that registered voters of component cities shall not be deprived of the right to vote for provincial officials.

Senator Gonzales confirmed the observation of Senator Macàda that provincial governors, as in the case of Batangas and Laguna, do not have any authority over chartered cities and, therefore, the registered voters in these places do not vote in the election for provincial officials. However, he admitted that in the case of Cebu City, the registered voters do not vote in the elections for provincial officials while those of Mandaue City could so vote.

Senator Gonzales explained that while he would rather have the same laws apply to both highly urbanized cities and component cities, the Constitution specifically stipulates the difference between the two.

Replying to the query on the second paragraph of Section 2, Senator Gonzales pointed out that should S. Bill No. 113 become a law, the city charter provisions disallowing the registered voters from voting for provincial officials would be rendered meaningless.

Senator Maceda opined that once a city is chartered, its political segregation from the province should be maintained. However, in view of the constitutional provision, Senator Maceda pressed for a way to provide for a rule that will prohibit all voters of the different cities from voting for provincial officials and establish the complete independence of cities from the provincial government. In reply, Senator Gonzales explained that such a proviso would be unconstitutional.

INTERPELLATION OF SENATOR TAÑADA

On the matter of choosing a supervisor for the municipal board of canvassers for municipalities with more than one school district, Senator Gonzales stated that a general rule has been provided under the rule-making power of the COMELEC for such conditions obtaining in each and every municipality that cannot be foreseen. He added that the rule should always be consistent with but never repugnant to the express provision of the law. However, Senator Gonzales stated that he would welcome amendments from Senator Tañada to improve this provision.

On the second paragraph of Section 11(3), Senator Tañada opined that the phrase "and other chartered cities with more than one representative district" is a surplusage inasmuch as the Constitution itself mentions only Manila, Quezon City, Caloocan City, Davao City and Cebu City as the cities with more than one representative district and that the proposed bill itself prohibits the classification of a city as highly urbanized within 60 days prior to the local election. In reply, Senator Gonzales stated that the said phrase had been included ex abundante cautela, or merely out of abundance of caution, and agreed to its deletion during the period of amendments.

INTERPELLATION OF SENATOR MERCADO

Replying to the query of Senator Mercado, Senator Gonzales affirmed that the problem arising from the delay in the appointment of watchers has been taken care of under Section 6 which states that "a duly signed appointment of a watcher shall entitle him/her to recognition by the Board of Election Inspectors and the exercise of his rights and discharge of his duties as such."

Therefore, Senator Gonzales stressed that there is no necessity for such an appointment to be noted by the election registrar, which notation could only be a source of delay.

On whether the parallel canvass, aside from the official canvass, would not just result in duplication of functions and encumber too much the officials concerned by dividing their attention which could produce haphazard results, Senator Gonzales stated that this is the most important electoral reform in the bill and it is not an experiment

considering that this was done and expressly provided for by law before martial law. He stressed that such provision would ensure a relatively clean election because even before the official canvass takes place, the people already know what to expect, inasmuch as the votes would already be tabulated in a bulletin board, and would serve notice of something wrong if changes in the votes are made during the canvass.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

On motion of Senator Mercado, there being no objection, the Chair declared the period of interpellations closed.

SUSPENSION OF CONSIDERATION OF
SENATE BILL NO. 113

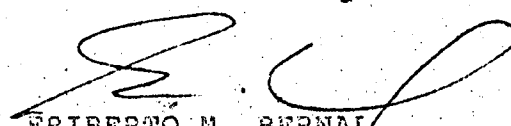
On motion of Senator Mercado, there being no objection, the Body suspended the consideration of Senate Bill No. 113.

ADJOURNMENT OF SESSION

On motion of Senator Mercado, there being no objection, the Chair declared the session adjourned until four o'clock in the afternoon of the following day.

It was 6:02 p.m.

I hereby certify to the correctness of the foregoing.


ERIBERTO M. BERNAL
Secretary of the Senate

JOURNAL

SESSION NO. 49
Monday, October 5, 1987

CALL TO ORDER

At 4:03 p.m., the Senate President, Hon. Jovito R. Salonga, called the session to order.

NATIONAL ANTHEM AND PRAYER

The Body sang the National Anthem and Filipinas Kong Mahal led by the Andres Bonifacio Music Foundation.

Thereafter, the Body observed a minute of prayer led by Senator Shahani.

SUSPENSION OF SESSION

The Chair suspended the session.
It was 4:09 p.m.

RESUMPTION OF SESSION

At 4:10 p.m., the session was resumed.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate called the Roll, to which the following Senators responded:

Angara, E. J.	Osmeña, J. H.
Aquino, A. A.	Paterno, V. T.
Enrile, J. P.	Pimentel, Jr., A. Q.
Estrada, J. E.	Rasul, S. T.
Guingona, Jr., T. T.	Romulo, A. G.
Herrera, E. F.	Saguisag, R. A. V.
Laurel, S. H.	Salonga, J. R.
Lina, Jr., J. D.	Shahani, L. R.
Maceda, E. M.	Tañada, W. E.
Mercado, O. S.	Ziga, V. S.

With 20 Senators present, the Chair declared the presence of a quorum.

Senators Alvarez and Gonzales appeared after the Roll Call.

He informed that the Vice-Governor, in his testimony before the Committee, submitted a map indicating the areas which are reported to be under NPA influence and cited examples how this influence was exercised like when they recruited young able-bodied men for their mass base and ordered them to carry firearms or the wounded whenever they stage an attack.

Senator Osmeña inquired whether the recruits were carrying out the orders of the NPA freely and willingly or whether they were intimidated, coerced or threatened, to which Senator Ziga replied that, based on the report of the Vice-Governor, the extent of the NPA influence on the so-called mass base has reached the point when said recruits can be called upon voluntarily any time an ambush or an attack is staged.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 6:05 p.m.

RESUMPTION OF SESSION

At 6:17 p.m., the session was resumed.

RESUMPTION OF CONSIDERATION OF
COMMITTEE REPORT NO. 23 ON
SENATE BILL NO. 113

On motion of Senator Mercado, there being no objection, the Body resumed consideration of Senate Bill No. 113 (Committee Report No. 23), entitled:

AN ACT PROVIDING FOR ADDITIONAL RULES
GOVERNING THE CONDUCT OF THE FIRST
LOCAL ELECTIONS AFTER THE ADOPTION
OF THE CONSTITUTION.

Senator Mercado stated that the Body was in the period of amendments.

The Chair recognized Senator Gonzales for the amendments.

COMMITTEE AMENDMENTS

On motion of Senator Gonzales, there being no objection, the Body approved the following amendments, one after the other:

1. On page 1, line 11, after the word "located", put a period (.), delete the colon (:), and the words "Provided, however, That", and change the small letter "n" in the word "no" to a capital letter;

2. On the same page, between lines 16 and 17, insert the following new paragraph, to wit:

FOR THIS PURPOSE, THE CHARTERS OF THE CITIES
AFFECTED ARE HEREBY AMENDED ACCORDINGLY.

Senator Gonzales explained that the amendment would adopt a uniform rule for highly urbanized and component cities and accordingly amend the charters of the cities affected.

3. On page 2, line 3, jointly with Senator Osmeña, after the word "candidacy", change the period (.) to a semicolon (;) and add the following clause: PROVIDED THAT CERTIFICATES OF CANDIDACY SHALL BE FILED DIRECTLY WITH THE CITY OR MUNICIPAL ELECTION REGISTRAR. FILING BY MAIL SHALL NOT BE ALLOWED.

Senator Gonzales explained that the provision seeks to have a fixed and definite starting point from which to compute the five-day period, in view of the short period within which a petition may be filed declaring a candidate a nuisance candidate or disqualifying him on some other grounds.

PROPOSED COMMITTEE AMENDMENT

On the same page 2, line 24, Senator Gonzales proposed to add the phrase AND THROUGH THE FASTEST MEANS after the word "delay"; on line 25, jointly with Senator Estrada, after the word "decision", insert the words OR THE DECISION OF THE SUPREME COURT IF APPEAL HAS BEEN MADE, then delete the phrase "declaring respondent a nuisance candidate"; and on line 26, after the word "registrars", insert a comma (,) then delete the word "and".

Senator Gonzales explained that originally, it is only in the decision declaring a respondent a nuisance candidate that dissemination is required, however, the Committee thought that in any decision, whether declaring a candidate a nuisance

candidate or sustaining the legitimacy of his candidacy, there must be dissemination so that the people, including the candidate whose candidacy is questioned, will be informed accordingly.

PROPOSED AMENDMENT OF SENATOR RASUL

Senator Rasul observed that the other subsections contain specific mandatory periods. In view thereof, she suggested that Section 3(5) should likewise have a specific period for the dissemination of the COMELEC decision by deleting the phrase "shall without delay" on line 24 and in lieu thereof, by specifying a period of 3 or 5 days within which the COMELEC shall publicize and particularize the manner of dissemination such as through newspapers of general circulation.

SUSPENSION OF SESSION

The Chair suspended the session.

It was 6:26 p.m.

RESUMPTION OF SESSION

At 6:27 p.m., the session was resumed.

AMENDMENT TO THE AMENDMENT

Upon resumption, Senator Gonzales withdrew his proposal and, in lieu thereof, on the same page 2, line 24, he proposed to substitute the words "without delay" with the phrase WITHIN TWENTY-FOUR HOURS AND THROUGH THE FASTEST AVAILABLE MEANS.

Upon suggestion of the Chair, the Sponsor accepted the rephrasing of line 24 to read "The Commission on Elections shall WITHIN TWENTY-FOUR HOURS, THROUGH THE FASTEST AVAILABLE MEANS".

As amended, Section 3(5) would read:

3. THE COMMISSION ON ELECTIONS SHALL WITHIN TWENTY-FOUR HOURS, THROUGH THE FASTEST AVAILABLE MEANS, DISSEMINATE ITS DECISION OR THE DECISION OF THE SUPREME COURT TO THE MUNICIPAL ELECTION REGISTRARS, BOARDS OF ELECTION INSPECTORS AND THE GENERAL PUBLIC IN THE POLITICAL SUBDIVISION CONCERNED.

There being no objection, the amendment, as amended, was approved by the Body.

JOINT AMENDMENT WITH SENATOR ENRILE

On page 3, between lines 7 and 8, the Committee, jointly with Senator Enrile, proposed to insert a new paragraph on Section 6, to read as follows:

SEC. 6. REPRESENTATIVES OF PARTIES DURING PRINTING OF RETURNS AND BALLOTS. - THE REGISTERED POLITICAL PARTIES OR COALITION OF PARTIES, OR THEIR COMPONENTS SHOULD THERE BE ANY DISSOLUTION OR DIVISION OF SAID COALITION, WHOSE CANDIDATES OBTAINED AT LEAST TEN PERCENT OF THE TOTAL VOTES CAST DURING THE SENATORIAL ELECTIONS HELD ON MAY 11, 1987 SHALL EACH HAVE A WATCHER AND/OR A REPRESENTATIVE IN THE PROCUREMENT AND WATERMARKING OF PAPERS TO BE USED IN THE PRINTING OF ELECTION RETURNS AND OFFICIAL BALLOTS AND IN THE PRINTING, NUMBERING, STORAGE, AND DISTRIBUTION THEREOF.

Upon inquiry of the Chair if the procurement process shall be subject to watching, Senator Gonzales clarified that the watchers or representatives will only observe so that they can report to the political parties which can then take the appropriate action.

There being no objection, the joint amendment was approved by the Body.

COMMITTEE AMENDMENTS

Section 6

Senator Gonzales proposed and the Body approved the following amendments:

- 1) jointly with Senator Osmeña, on line 11, after the word "place", change the period (.) to a semicolon (;) and add the proviso PROVIDED THAT CANDIDATES FOR MUNICIPAL COUNCILORS BELONGING TO THE SAME SLATE OR TICKET SHALL COLLECTIVELY BE ENTITLED TO A WATCHER;
- 2) on line 12, between the words "him/her" and "recognition", insert TO;
- 3) on line 12, delete "/her"; and
- 4) on line 20, between the words "highest" and "number", insert the phrase AND THE SECOND HIGHEST.

Section 9

- 1) on page 4, line 14, change "boards" to SHEETS; and
- 2) on line 18, after the word "candidacy", delete the period (.) and add the phrase enclosed in parentheses: (AS AUTHORIZED UNDER SECTION 74 OF BATAS PAMBANSA B.L.G. 881);

Section 10

- 1) on page 4, line 22, change "original" to FIRST;
- 2) on page 5, line 8, between the words "be" and "for", insert the phrase OR IN HIS ABSENCE TO ANY OFFICIAL WHO MAY BE DESIGNATED BY THE COMMISSION ON ELECTIONS.

Senator Gonzales explained that there are towns without municipal trial judges or municipal circuit trial judges.

- 3) on page 5, line 17, between the words "delivery" and "of", insert the words AND PRESERVATION.

Section 11

On page 6, line 19, after the word "be", add the words OPEN AND.

Section 12

On page 6, line 23, after the word "parties" place a comma (,).

Section 13

On page 7, line 9, between the words "registration" and "day", insert the words OR REVISION; between the words "and" and "on", insert in words and figures TWO HUNDRED PESOS (P200.00).

INQUIRY OF SENATOR ROMULO

Upon inquiry of Senator Romulo why the P100.00-per diem for registration day has been retained while a P200.00-per diem has been provided on election day, Senator Gonzales explained that from inquiries with the COMELEC and the municipal treasurers of Mandaluyong and Makati, he learned that only P50-per diem was paid on registration day while on election day only the chairman and poll clerk were paid P200 and the rest P100.00.

Senator Romulo recalled that when the 1987 budget was discussed, the per diem for registration day was computed at ₱200.00. He suggested adopting the ₱200-per diem proposal.

SUSPENSION OF SESSION

On motion of Senator Romulo, the Chair suspended the session.

It was 6:45 p.m.

RESUMPTION OF SESSION

At 6:46 p.m., the session was resumed.

Upon resumption of session, Senator Romulo withdrew his proposed amendment.

Thereafter, the Body approved the proposed amendment of Senator Gonzales.

PROPOSED AMENDMENT OF SENATOR RASUL

On Section 4, page 2, Senator Rasul proposed an amendment that would also penalize, in addition to the nuisance candidate, an official who deliberately or by gross negligence omits to implement Section 3(5) of the bill.

SUSPENSION OF SESSION

At this juncture, on motion of Senator Gonzales, the Chair suspended the session.

It was 6:49 p.m.

RESUMPTION OF SESSION

At 6:53 p.m., the session was resumed.

SAGUISAG AMENDMENT

Upon resumption of session, Senator Rasul yielded the floor to Senator Saguisag for the presentation of the proposed amendment on Section 4. *joint*

Senator Saguisag proposed a substitute amendment for Section 4 to read:

SEC. 4. NUISANCE OR DISQUALIFIED CANDIDACY
AN ELECTION OFFENSE. ANY PERSON DECLARED A NUISANCE
CANDIDATE AS DEFINED UNDER SECTION 69 OF BATAAS
PAMBANSA BLG. 881, OR IS OTHERWISE DISQUALIFIED, BY

FINAL AND EXECUTORY JUDGMENT, WHO CONTINUES TO MISREPRESENT HIMSELF, OR HOLDS HIMSELF OUT AS A CANDIDATE, SUCH AS BY CONTINUING TO CAMPAIGN THEREAFTER, AND/OR (WITH) ANY OTHER PUBLIC OFFICER OR PRIVATE INDIVIDUAL, WHO KNOWINGLY CAUSES OR ABETS SUCH MISREPRESENTATION, BY COMMISSION OR OMISSION, SHALL BE GUILTY OF AN ELECTION OFFENSE AND SUBJECT TO THE PENALTY PROVIDED IN SECTION 264 OF THE SAME CODE.

In reply to the query of Senator Guingona, Senator Saguisag clarified that a nuisance candidate is someone who is so declared by the Commission on Elections as a "nuisance candidate" by final and executory judgment.

On whether the Supreme Court rulings have to be reckoned with, Senator Saguisag maintained that the COMELEC should always feel persuaded or guided by the authoritative pronouncements of the Supreme Court and that the judgment made by the COMELEC can be appealed to the Supreme Court. In addition, Senator Saguisag stated that a candidate, pending an appeal, may campaign because of the presumption of good faith.

Thereafter, there being no objection, the Body approved the proposed amendment subject to refinement and style.

TAÑADA AMENDMENTS

As proposed by Senator Tañada and accepted by Senator Gonzales, the Body approved the following amendments on page 6, subject to refinements and style:

- 1.) On line 8, delete "district" between "the" and "supervisor";
- 2.) On line 9, delete the words "public school" between "the" and "principal"; and delete the word "municipality" and in lieu thereof, insert: SCHOOL DISTRICT OR THE ELEMENTARY SCHOOL, AS THE CASE MAY BE, SITUATED WITHIN THE AREA COMPRISING THE MUNICIPAL HALL OR BUILDING WHERE THE MUNICIPAL MAYOR AND THE SANGGUNIANG BAYAN HOLD OFFICE.

Senator Romulo recalled that when the 1987 budget was discussed, the per diem for registration day was computed at ₱200.00. He suggested adopting the ₱200-per diem proposal.

SUSPENSION OF SESSION

On motion of Senator Romulo, the Chair suspended the session.

It was 6:45 p.m.

RESUMPTION OF SESSION

At 6:46 p.m., the session was resumed.

Upon resumption of session, Senator Romulo withdrew his proposed amendment.

Thereafter, the Body approved the proposed amendment of Senator Gonzales.

PROPOSED AMENDMENT OF SENATOR RASUL

On Section 4, page 2, Senator Rasul proposed an amendment that would also penalize, in addition to the nuisance candidate, an official who deliberately or by gross negligence omits to implement Section 3(5) of the bill.

SUSPENSION OF SESSION

At this juncture, on motion of Senator Gonzales, the Chair suspended the session.

It was 6:49 p.m.

RESUMPTION OF SESSION

At 6:53 p.m., the session was resumed.

SAGUISAG AMENDMENT

Upon resumption of session, Senator Rasul yielded the floor to Senator Saguisag for the presentation of the *joint* proposed amendment on Section 4.

Senator Saguisag proposed a substitute amendment for Section 4 to read:

SEC. 4. NUISANCE OR DISQUALIFIED CANDIDACY
AN ELECTION OFFENSE. ANY PERSON DECLARED A NUISANCE
CANDIDATE AS DEFINED UNDER SECTION 69 OF BATAS
PAMBANSA BLG. 881, OR IS OTHERWISE DISQUALIFIED BY

FINAL AND EXECUTORY JUDGMENT, WHO CONTINUES TO MISREPRESENT HIMSELF, OR HOLDS HIMSELF OUT, AS A CANDIDATE, SUCH AS BY CONTINUING TO CAMPAIGN THEREAFTER, AND/OR (WITH) ANY OTHER PUBLIC OFFICER OR PRIVATE INDIVIDUAL, WHO KNOWINGLY CAUSES OR ABETS SUCH MISREPRESENTATION, BY COMMISSION OR OMISSION, SHALL BE GUILTY OF AN ELECTION OFFENSE AND SUBJECT TO THE PENALTY PROVIDED IN SECTION 254 OF THE SAME CODE.

In reply to the query of Senator Guingona, Senator Saguisag clarified that a nuisance candidate is someone who is so declared by the Commission on Elections as a "nuisance candidate" by final and executory judgment.

On whether the Supreme Court rulings have to be reckoned with, Senator Saguisag maintained that the COMELEC should always feel persuaded or guided by the authoritative pronouncements of the Supreme Court and that the judgment made by the COMELEC can be appealed to the Supreme Court. In addition, Senator Saguisag stated that a candidate, pending an appeal, may campaign because of the presumption of good faith.

Thereafter, there being no objection, the Body approved the proposed amendment subject to refinement and style.

TAÑADA AMENDMENTS

As proposed by Senator Tañada and accepted by Senator Gonzales, the Body approved the following amendments on page 6, subject to refinements and style:

- 1.) On line 8, delete "district" between "the" and "supervisor";
- 2.) On line 9, delete the words "public school" between "the" and "principal"; and delete the word "municipality" and in lieu thereof, insert: SCHOOL DISTRICT OR THE ELEMENTARY SCHOOL, AS THE CASE MAY BE, SITUATED WITHIN THE AREA COMPRISING THE MUNICIPAL HALL OR BUILDING WHERE THE MUNICIPAL MAYOR AND THE SANGGUNIANG BAYAN HOLD OFFICE.

- 3.) On line 13, place AND instead of the comma (,) between "Davao" and "Cebu"; and delete the words starting from "and other" up to the word "district" on line 15

PROPOSED AMENDMENT OF SENATOR ESTRADA

On page 7, line 10, after the word "Commission", Senator Estrada proposed to add: PROVIDED THAT NO SALARY INCREASES OR ANY KIND OF FINANCIAL OR MATERIAL INCENTIVE WILL BE GIVEN OR GRANTED TO TEACHERS WITHIN SIXTY DAYS BEFORE AND SIXTY DAYS AFTER AN ELECTION.

Senator Gonzales observed that the proposal is not germane to Section 14 which only provide for per diems of election inspectors and other school personnel on registration or revision and election day. Moreover, he pointed out that there is already a prohibition in Batas pambansa Blg. 881 against the grant of salary increases within 45 days before an election. He added that the government is actually confronted with clamors for salary increases by government officers and employees, including members of the Armed Forces, and 60 days might be too long and might unduly and adversely affect the early grant of such increases.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 7:07 p.m.

RESUMPTION OF SESSION

At 7:10 p.m., the session was resumed.

WITHDRAWAL OF SENATOR ESTRADA'S PROPOSED AMENDMENT

Upon resumption, Senator Estrada withdrew his proposed amendment.

RENUMBERING OF THE SECTIONS

In view of Senator Enrile's amendment inserting a new Section 6, on motion of Senator Gonzales, there being

Monday, October 5, 1987

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no objection, the Body approved the renumbering of the sections accordingly.

APPROVAL ON SECOND READING OF
SENATE BILL NO. 113, AS AMENDED

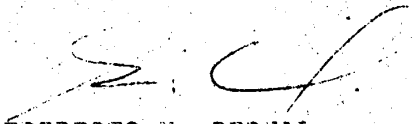
Submitted to a vote and there being no objection, the Body approved, on Second Reading, Senate Bill No. 113, as amended.

ADJOURNMENT OF SESSION

On motion of Senator Mercado, there being no objection, the Chair declared the session adjourned until four o'clock in the afternoon of the following day.

It was 7:12 p.m.

I hereby certify to the correctness of the foregoing.


ERIBERTO M. BERNAL
Secretary of the Senate

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SENATE

OFFICE

1987

REGULAR SESSION

CONGRESS OF THE PHILIPPINES

SENATE

RECORDS AND ARCHIVES DIVISION

FIRST REGULAR SESSION

CP-Senate

Journal

55

JOURNAL

SESSION NO. 55

Tuesday, October 13, 1987

CALL TO ORDER

At 4:04 p.m., the Senate President, Hon. Jovito R. Salonga, called the session to order.

PRAYER

The Body observed a minute of prayer led by Senator Aquino.

ROLL CALL

Upon direction of the Chair, the Acting Secretary of the Senate called the Roll, to which the following Senators responded:

Alvarez, H. T.	Pimentel, Jr., A. O.
Angara, E. J.	Rasul, S. T.
Aquino, A. A.	Romulo, A. G.
Estrada, J. E.	Saguisag, R. A. V.
Gonzales, N. A.	Salonga, J. R.
Guingona, Jr., T. T.	Shahani, L. R.
Herrera, E. F.	Tamano, M. A. J.
Lina, Jr., J. D.	Tañada, W. E.
Maceda, E. M.	Ziga, V. S.
Mercado, O. S.	

With 19 Senators present, the Chair declared the presence of a quorum.

Senators Enrile, Laurel and Paterno appeared after the Roll Call.

Senators Manglapus and Osmeña were absent.

Senator Mercado informed that printed copies of the bill were distributed to the Members on October 8, 1987.

Upon direction of the Chair, the Acting Secretary of the Senate called the Roll for the nominal voting.

In favor:

Alvarez	Paterno
Angara	Pimentel
Aquino	Rasul
Enrile	Romulo
Estrada	Jaguisag
Gonzales	Salonga
Guingona	Shahani
Herrera	Tamano
Lina	Tañada
Maceda	Ziga
Mercado	

Against:

None

Abstention:

None

With 21 Senators voting in favor, none against and no abstention, the Chair declared Senate Bill No. 113 approved on Third Reading.

RESUMPTION OF CONSIDERATION
OF COMMITTEE REPORT NO. 21
ON SENATE BILL NO. 11

On motion of Senator Mercado, there being no objection,

the Body resumed consideration of Committee Report No. 21 on Senate Bill No. 11, entitled:

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

Senator Mercado stated that the parliamentary status would still be the period of amendments to which the Body may proceed on the basis of the clean copies distributed earlier.

Thereupon, the Chair recognized Senator Guingona.

Senator Guingona informed the Body that with the deletion of Section 7, a compromise was agreed upon with Senator Maceda who was the proponent of the deletion.

MACEDA AMENDMENT

Thereupon, Senator Maceda proposed the following amendment to be inserted as Section 7 of the bill:

SEC. 7. REFORMS IN DISSEMINATION OF SAMPLE BALLOTS. - SECTION 93 OF THE CODE IS HEREBY REPEALED AND IN ITS PLACE THE FOLLOWING SECTION IS HEREBY INSERTED:

SEC. 93. REGULATION AND SUPERVISION BY THE COMELEC OF THE DISSEMINATION OF THE CANDIDATE'S SAMPLE BALLOTS AND OTHER BASIC PROPAGANDA. - THE COMELEC, AFTER DUE NOTICE AND HEARING WHERE ALL INTERESTED PARTIES ARE GIVEN EQUAL OPPORTUNITY TO BE HEARD SHALL, WITH THE HELP OF THE CANDIDATES OR THEIR DULY AUTHORIZED REPRESENTATIVES, DEVISE WAYS AND MEANS TO ENABLE IT TO PROPERLY REGULATE AND SUPERVISE THE DISSEMINATION TO THE REGISTERED VOTERS OF THE APPROPRIATE ELECTORAL DISTRICTS WHERE THE CANDIDATES ARE RUNNING FOR PUBLIC OFFICE, THEIR SAMPLE BALLOTS, HANDBILLS, AND OTHER BASIC ELECTION PROPAGANDA.

Senator Maceda explained that in the last election for Members of the House of Representatives, so many of the sample ballots of the candidates were distributed at the

wrong districts. So many were also just thrown away near the precincts by children who were giving the same to voters going to the precincts to vote. So many were also simply thrown away by voters who have already made up their minds on the way to the precincts. This sad spectacle could be avoided by the proposed provision.

The COMELEC can ask the candidates or their duly authorized representatives to help in devising ways and means of disseminating their basic election propaganda. This way, we could avoid unnecessary waste in election spending.

Senator Guingona accepted the amendment which, there being no objection, was approved by the Body.

GONZALES AMENDMENT

On page 1, line 6, as proposed by Senator Gonzales and accepted by Senator Guingona, there being no objection, the Body approved the insertion of the words AND PLEBISCITES between "elections" and "to".

ESTRADA AMENDMENT, AS MODIFIED
BY SENATOR ANGARA

On page 6, line 23, Senator Estrada proposed to insert the words PRIVATE OR between the words "SUCH" and "PUBLIC". Reacting thereto, Senator Guingona stated that he would have no objection. Senator Angara, as the proponent of the original amendment, explained that the purpose of the provision is to authorize the COMELEC to designate buildings of public character because private owners may rightfully

refuse to have their buildings used as a common poster area. However, the Chair pointed out that privately-owned markets are used by the public, in reply to which Senator Angara stated that it is the public market run by a private operator that is still considered as a public building.

SUSPENSION OF SESSION

At this juncture, the Chair suspended the session.

It was 4:26 p.m.

RESUMPTION OF SESSION

At 4:28 p.m., the session was resumed.

Upon resumption, Senator Angara stated that a consensus had been reached to delete on page 6, line 23, the word "PUBLIC" before "MARKET".

Senator Guingona accepted the amendment as modified and, there being no objection, the same was approved by the Body.

RENUMBERING OF SECTION

On page 7, Senator Guingona reminded the Body of the insertion of a new Section 7 between lines 4 and 5, in view of which, upon suggestion of the Chair, the Body approved the renumbering of Section 7 to Section 8.

ANGARA AMENDMENTS

On page 8, lines 2 and 3, as proposed by Senator Angara, modified by the Chair, and accepted by Senator Guingona, the Body approved the deletion of the phrase "PRIMA FACIE EVIDENCE AGAINST SUCH RELATIVES, LEADERS OR SYMPATHIZERS", and its substitution with the phrase A DISPUTABLE PRESUMPTION; and on line 10, insert DISPUTABLE between "A" and "PRESUMPTION".

AMENDMENT SUGGESTED BY THE CHAIR

On page 10, line 26, upon suggestion of the Chair, there being no objection, the Body approved the deletion of the word "ELECTION".

LAUREL AMENDMENT

On page 10, lines 27 and 28, as proposed by Senator Laurel and accepted by Senator Guingona, the Body approved the deletion of the phrase "the residence requirement provided for in the election laws".

RENUMBERING OF SECTIONS

Upon suggestion of the Chair, the Body approved the renumbering of Sections 8, 9 and 10 into Sections 9, 10 and 11, respectively.

APPROVAL ON SECOND READING OF
SENATE BILL NO. 11, AS AMENDED

Thereafter, submitted to a vote and there being no objection, the Body approved on Second Reading, Senate Bill No. 11, as amended.

CONSIDERATION OF COMMITTEE REPORT
NO. 32 ON SENATE BILL NO. 139

On motion of Senator Mercado, the Body considered Committee Report No. 32, submitted by the Committee on Accountability of Public Officers and Investigations, on Senate Bill No. 139 (in substitution of S. Nos. 3 and 104), entitled:

AN ACT ESTABLISHING ETHICAL STANDARDS FOR
ALL PUBLIC OFFICERS AND PROVIDING PENALTIES FOR
VIOLATIONS THEREOF,

jointly with Committee Report No. 34 on S. No. 104 in substitution of the original bill and in consolidation with

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CALL TO ORDER

At 4:26 p.m., the Senate President, Hon. Jovito R. Salonga, called the session to order.

NATIONAL ANTHEM AND PRAYER

The Body sang the National Anthem and Pilipinas Kong Mahal led by the Senate Choir.

Thereafter, the Body observed a minute of prayer led by Senator Ziga.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate called the Roll, to which the following Senators responded:

Alvarez, H. T.	Paterno, V. T.
Angara, E. J.	Pimentel, Jr., A. Q.
Enrile, J. P.	Rasul, S. T.
Estrada, J. E.	Romulo, A. G.
Guingona, Jr., T. T.	Saguisag, R. A. V.
Herrera, E. F.	Salonga, J. R.
Lina, Jr., J. D.	Tamano, M. A. J.
Maceda, E. M.	Tañada, W. E.
Mercado, O. S.	Ziga, V. S.
Osmeña, J. H.	

With 19 Senators present, the Chair declared the presence of a quorum.

Senator Aquino appeared after the Roll Call.

Senators Gonzales, Laurel and Suanani were absent.

RESERVATION OF SENATOR OSMEÑA

Senator Osmeña made of record the reservation he had voiced out during the caucus that when the Body adjourned on December 18, it could only be called to special session by the President of the Philippines in accordance with the Constitution. He stressed that whatever the Members would do would become a precedent for successive Congresses and would be used to justify its actuations. He further stressed that the Body bears a greater responsibility than would otherwise be borne by all succeeding Congresses.

RESULT OF THE VOTING

Submitted to a vote, with a majority voting in favor, the Body approved Senate Resclution No. 80.

CONSIDERATION OF CONFERENCE
COMMITTEE REPORT ON SENATE BILLS
NOS. 11, 112 AND HOUSE BILL
NO. 4046

On motion of Senator Mercado, the Body proceeded to the consideration of the Conference Committee Report on Senate No. 11, entitled:

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

Senate No. 112, entitled:

AN ACT PROVIDING FOR ADDITIONAL RULES GOVERNING
THE CONDUCT OF THE FIRST LOCAL ELECTIONS
AFTER THE ADOPTION OF THE CONSTITUTION;

and House Bill No. 4046, entitled:

AN ACT INTRODUCING ADDITIONAL REFORMS IN THE
ELECTORAL SYSTEM AND FOR OTHER PURPOSES.

Thereupon, on motion of Senator Mercado, Senator Pimentel was recognized for the sponsorship.

SPONSORSHIP REMARKS OF SENATOR PIMENTEL

Senator Pimentel stated that the Committees on Electoral Reforms and People's Participation; and on Local Government were submitting the Conference Committee Report on behalf of the conferees on the part of the Senate who met with their counterparts from the House of Representatives. He requested that the Conference Committee Report on Senate Bills Nos. 11 and 113 as consolidated in House Bill No. 4046 be adopted and approved by the Body.

He made of record that before Senator Gonzales left, the latter had indicated that the Body should go along with even the version of the House of Representatives if only to save the bill.

INQUIRY OF THE CHAIR

In reply to the Chair's query on the highlights of the Conference Committee Report, Senator Pimentel informed the Body that one of the controversial points which was embodied in House Bill No. 4046 was the sentence that would have qualified the voters of certain component cities, like Mandaue, Ormoc, Oroquieta, Dagupan and San Carlos City in Pangasinan to vote for provincial officials. However, he stated that the conferees from House of Representatives had agreed that the provision be deleted from the final version, and that the Senate version requiring that the names of all registered candidates using nicknames or stage names be printed in the election returns and the tally sheets be immediately followed and adopted.

He also stated that the House conferees agreed to delete lines 18 up to 24 on page 5 of the approved version, and to insert the phrase IN ADDITION TO THE PRELIMINARY ACTS BEFORE THE VOTING AS ENUMERATED IN SECTION 191 OF BATA3 PAMBANSA BILANG 881 on page 11, line 11 of the Senate version.

He pointed out that the only other amendment involves the capitalization of the letter "t" in the phrase starting with the word "the" before the word "Chairman".

VOTING ON THE CONFERENCE COMMITTEE REPORT

At this juncture, the Chair called for a vote on the Conference Committee Report submitted by Senator Pimentel.

Thereupon, Senators Enrile, Saguisag and Maceda manifested that they are abstaining from voting on the Conference Committee Report.

EXPLANATION OF VOTES

By Senator Osmeña

Senator Osmeña abstained. He recalled that he previously voted in favor of Senate Bills Nos. 11 and 113 which were actually initiated and approved by the Senate in August 1987. Unfortunately, he said, the Speaker of the House is now posturing to make it appear that it is the Senate that has not lived up to its responsibility of enacting electoral reforms. He then manifested that notwithstanding his support for said bills, he would now prefer to abstain because of the holding the session under a cloud of illegality.

By Senator Rasul

Senator Rasul likewise abstained on the ground that it was the first time she had seen the Conference Committee Report and it would be too late to propose amendments.

By Senator Guingona

Explaining his affirmative vote, Senator Guingona affirmed that the two Senate bills embodied in the Conference Committee Report were essentially Senate Bills Nos. 11 and 113. He informed that Senate Bill No. 11 was sent to the House of Representatives on July 23, 1987, approved by the House on Third Reading on October 19, a conference was scheduled on December 16, 1987, and a report thereon submitted to the Senate on December 28, 1987. On the other hand, he stated that Senate Bill No. 113 was sent to the House of Representatives on September 24, 1987 after its approval and was later approved on Third Reading by the House of Representatives on October 13,

for which a conference was scheduled for December 16 but the final Conference Committee Report was submitted to the Senate on December 28, 1987.

He noted that despite its imperfections, the Conference Committee Report essentially contains Senate Bills Nos. 11 and 113.

REMARKS OF THE CHAIR

The Chair took notice of the fact that the Conference Committee Report bears the signatures of Senators Pimentel, Guingona, Tañada and Enrile.

APPROVAL OF THE CONFERENCE COMMITTEE REPORT

Submitted to a vote, with 11 the majority voting in favor and 5 abstentions, the Body approved the Conference Committee Report on Senate Bills Nos. 11 and 113 and House Bill No. 4046.

REFERENCE OF BUSINESS

Upon request by Senator Mercado, the Secretary of the Senate read, and the Chair referred the following matters to the Committees hereunder indicated and assigned the Committee Reports to the Calendar for Ordinary Business:

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

Communication from the Secretary of the House of Representatives, informing the Senate that on December 17, 1987 the House of Representatives approved the Conference Committee Report on the disagreeing provisions of Senate Bill No. 137, entitled:

AN ACT PROVIDING FOR THE CONFIRMATION BY THE COMMISSION ON APPOINTMENTS OF ALL APPOINTMENTS MADE BY THE PRESIDENT OF THE PHILIPPINES,