

RECORD OF THE SENATE

TUESDAY, SEPTEMBER 19, 2000

OPENING OF THE SESSION

At 3:35 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

The President. The 19th session of the Senate in the Third Regular Session of the Eleventh Congress is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Aquilino Q. Pimentel Jr.

Everybody rose for the prayer.

PRAYER

Senator Pimentel.

Lord, bless our session as we work today.

Bless our troops as they continue to flush out the Abu Sayyaf brigands from their lairs in Sulu.

Bless the innocent civilians—men, women and children who are caught in the crossfire in the military operations there.

Bless the hostages whose lives either hang in the balance or who might already been killed.

Bless particularly the tele-evangelist Wilde Almeda and his followers who have acted out their belief in the power of prayer in Your Name in an attempt to save the then Sipadan hostages in the very den of the murderous Abu Sayyaf band in Sulu.

The Sipadan hostages have indeed been released but Wilde Almeda and his followers as of last news remained unaccounted for.

Bless Fr. Rhoel Gallardo whom the Abu Sayyaf have tortured and killed all because he tried to live as Your servant even in captivity.

Bless our government so that it may do the right thing for our people in Central and Southern Mindanao.

Bless our people that we may bind the wounds that scarred the hearts of many in Mindanao.

Succor the widows and the orphans left by the shooting war in Central and Southern Mindanao.

Heal our land of dissension and violence that have wracked it over the years.

And help us establish a just and lasting peace for all our people.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Acting Secretary [Atty. Reyes], reading:

Senator Teresa Aquino-Oreta	Present
Senator Robert Z. Barbers	*
Senator Rodolfo G. Biazon	Present
Senator Renato L. Compañero Cayetano	Present
Senator Anna Dominique M.L. Coseteng	Present
Senator Miriam Defensor Santiago	Present
Senator Juan Ponce Enrile	Present
Senator Juan M. Flavier	Present
Senator Teofisto T. Guingona Jr.	Present
Senator Gregorio B. Honasan	Present
Senator Robert S. Jaworski	Absent**
Senator Loren B. Legarda-Leviste	Absent**
Senator Ramon B. Magsaysay Jr.	Present
Senator Blas F. Ople	Present
Senator John Henry R. Osmeña	Present
Senator Sergio R. Osmeña III	Present
Senator Aquilino Q. Pimentel Jr.	Present
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Vicente C. Sotto III	Present
Senator Francisco S. Tatad	Present
The President	Present

The President. With 19 senators present, there is a quorum.

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

THE JOURNAL

Senator Tatad. Mr. President, I move that we dispense with the reading of the *Journal* of Session No. 18 of Monday, September 18, 2000 and consider it approved.

* On official mission

** On account of illness

Senator Aquino-Oreta. That is all, Mr. President. I would like to thank the distinguished gentleman for the time. We strongly believe that the Senate Blue Ribbon Committee will go into the nitty-gritty of this matter, because it is very important that the money being given by the government for education should be given to the children or to its beneficiaries.

Thank you very much, Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Mr. President, we would like to thank Senator Enrile for his statement and all those who interpellated him on the floor.

MOTION OF SENATOR TATAD

(Referral of Senator Enrile's Speech and Interpellations Thereto to the Accountability of Public Officers and Investigations Committee)

I move that we refer the speech and the interpellations thereto to the Committee on Accountability of Public Officers and Investigations.

The President. Is there any objection? [Silence] There being none, the motion is approved.

SUSPENSION OF SESSION

Senator Tatad. Mr. President, I move that we suspend the session for one minute.

The President. The session is suspended for one minute, if there is no objection. [There was none.]

It was 5:13 p.m.

RESUMPTION OF SESSION

At 5:23 p.m., the session was resumed.

The President. The session is resumed. The Majority Leader is recognized.

CONFERENCE COMMITTEE ON S. NO. 1545/H. NO. 5915 (Philippine Micronutrient Fortification Act)

Senator Tatad. Mr. President, I move that we now constitute the Senate panel to the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1545 and its House counterpart.

For this purpose, I hereby nominate Sen. Juan M. Flavies as chairman, and as members: Sen. Teresa Aquino-Oreta, Sen. Renato L. Compañero Cayetano, Sen. Ramon B. Magsaysay Jr. and Sen. Robert S. Jaworski.

The President. Is there any objection? [Silence] There being none, the motion is approved.

BILL ON SECOND READING

S. No. 1742 — Lifting the Political Ad Ban (Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 1742 under Committee Report No. 71.

I invite attention to the approved committee amendments as of September 18, 2000, copies of which have been distributed to the senators.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 1742 is now in order.

Senator Tatad. Mr. President, we are in the period of individual amendments. I ask that the distinguished sponsor, Sen. Raul S. Roco, be recognized.

To propose some amendments, I ask that Sen. Aquilino Q. Pimentel Jr. be recognized.

The President. Senator Roco is recognized. Senator Pimentel is likewise recognized for the period of individual amendments.

PIMENTEL AMENDMENT

Senator Pimentel. Thank you very much, Mr. President.

Actually, I have no amendments for pages 1, 2 and 3. The only reason I am asking to be recognized first, Mr. President, is due to some engagements that I have to attend to. So, if the other members of this Chamber would have no objection, I would like to take the floor to propose this very brief amendment, Mr. President.

The President. All right.

Senator Roco. Subject to our colleagues, Mr. President.

Senator Pimentel. Yes, of course.

This is on page 3, Section 7, Mr. President, *Rates for Political Propaganda*. I will just read the section now, for a clearer understanding of what I intend to do.

"During the election period, media outlets shall charge registered political parties and bona fide candidates no more

than ninety percent (90%) of the prevailing commercial rates of the newspaper, television or radio stations during the off-election period."

I would like to propose that in line 10, Mr. President, we set the cap at not more than TEN PERCENT (10%) instead of "90%", Mr. President.

Senator Roco. Of prevailing commercial rates?

Senator Pimentel. And then the wordings will be: "of THE AVERAGE prevailing commercial rates of the newspaper, television or radio stations FOR ONE YEAR IMMEDIATELY PRECEDING THE ELECTION." In other words, we look at the average rates that they are collecting and we set the cap at not more than TEN PERCENT (10%), Mr. President.

Senator Roco. Mr. President, before acting on the matter, may I suggest, now that it has been proposed as a specific amendment. There are at least three (3) other senators with a different idea on this matter. May we take that as the first proposed amendment so that even in the absence of Senator Pimentel, we can discuss it. But we will take that as the first proposed amendment and then there can be an amendment to the amendment or whatever is its nature.

So with the permission now of our distinguished friend, Mr. President, may we then suspend consideration of that particular amendment so that we can go to it in the ordinary course.

The President. What is the pleasure of the Minority Leader?

Senator Guingona. Mr. President, with the permission of the two distinguished gentlemen. I would just like to manifest that in the determination of the rate, there is a rate card and a negotiated rate. And so we have talked to some people in the advertising business and they say that the negotiated rate is always lower than the rate card because it is a commercial transaction.

But here, Mr. President, the social aspect is the one that dominates. We are not here for the business side, only incidentally, and the principal purpose is to help the poorer candidates. So, may we change that TEN PERCENT (10%) to TWENTY PERCENT (20%) of the rate card which is really commercial rate which many television stations can ill afford to lower because they have, in fact, lowered for negotiated rates up to 20 percent?

Senator Pimentel. May I respond, Mr. President, with the permission of the chairman of the committee. I have no problem

with that, except for the fact that if we allow that amendment or that innovation or that change to come into the proposed amendments that I am standing for, we will have to be specific about what is the basis of the proposed cap particularly as regards the card rate. This term is not really that known to many people. If we say "prevailing commercial rates," that might be a little bit more understandable. I do not know. Maybe we can change the wording, Mr. President.

Senator Cayetano. Mr. President, with the permission of my three colleagues on the floor.

The President. What is the pleasure of Senator Cayetano?

Senator Cayetano. Mr. President, I just would like to share some information that on television, there is the rate card which is normally higher than the negotiated rate.

Also on television, the program and the time that program is shown is determinative of the rate card as well as the negotiated rate. I just want to provide that information, Mr. President.

Indeed, like my colleague, the Minority Leader, I was also informed by a number of advertisers. I know this for a fact, too, that there is a marked difference between a rate card and a negotiated rate, as well as a prime-time rate and a nonprime-time rate. This is just for the information of my colleagues, Mr. President.

Thank you.

Senator Roco. May we act on the motion to suspend this temporarily so that we may now go to page 1 and go line by line for orderly proceedings, Mr. President.

Later on, I think there are those who will suggest 50 percent, there are those who will suggest not more than five times the annual income. So when we get to page 3, in the appropriate order, then we can try to consolidate all of them.

Senator Guingona. Yes, Mr. President. I just want to say that as far as commercial rates or card rate is concerned, it can be the same. But the rate card is used on television spots.

Senator Roco. Yes, Mr. President. The committee is in possession of the rate cards of all the major stations if we want to refer to them. So that in whatever final form it may be, the committee would prefer to listen to all the different suggestions so that we strike a mean and maybe that is what we will finally submit to the Chamber.

So, with the consent of the Chamber, may we suspend

consideration of that particular amendment and proceed to page 1.

The President. The Chair thinks that it is in order. So we proceed.

Senator Tatad. We go line by line, Mr. President.

Senator Roco. On page 1, Mr. President.

The President. On page 1, Sen. Miriam Defensor Santiago is recognized.

Senator Defensor Santiago. Mr. President, I am referring to page 1, line 5, Section 2.

Senator Roco. Yes, please.

DEFENSORSANTIAGO AMENDMENT

Senator Defensor Santiago. I propose to delete the phrase "to ensure equal opportunity". And after the phrase "or information", insert instead TO GUARANTEE EQUAL ACCESS TO OPPORTUNITIES FOR PUBLIC SERVICE INCLUDING EQUAL. So that line 5 will now read: TO GUARANTEE EQUAL ACCESS TO OPPORTUNITIES FOR PUBLIC SERVICE INCLUDING EQUAL time and space.

The only reason I am proposing this amendment of style is that I would like to use the very language of the Constitution itself. I am referring to the Constitution, Article II, Section 26. Actually, the meaning will be the same. I just want to use the phraseology of the Charter itself.

Senator Roco. We were also using, Mr. President, the words of Section 4, Article IX, subsection D, I think.

May we ask for the full text again. If it is read now with the proposed amendment, how will it read?

Senator Defensor Santiago.

"Sec. 2. *Declaration of Principles.* — The State shall, during the election period, supervise or regulate the enjoyment or utilization of all franchises or permits for the operation of media of communication or information TO GUARANTEE EQUAL ACCESS TO OPPORTUNITIES FOR PUBLIC SERVICE INCLUDING EQUAL time and space," et cetera.

Senator Roco. Would it be all right if we just use also TO GUARANTEE OR ENSURE EQUAL OPPORTUNITY, TIME AND SPACE?

Senator Defensor Santiago. Yes, Mr. President.

Senator Roco. We accept, Mr. President, subject to style, because we will have to reconcile the words.

The President. Subject to style, the amendment of Senator Defensor Santiago is accepted by the sponsor. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Mr. President, I do not know where to place it. Maybe in the last, after line 15 of page 1. The proposed amendment reads as follows:

NO MOVIE PORTRAYING THE LIFE OF A CANDIDATE SHALL BE SHOWN DURING THE ELECTION PERIOD UNLESS THE SAME IS TRUE AND FACTUAL, NOT FALSE, DECEPTIVE AND MISLEADING AS EMBODIED IN ARTICLE 110 OF REPUBLIC ACT NO. 7394, THE VIOLATION OF WHICH SHALL BE AN ELECTION OFFENSE.

Senator Tatad. Mr. President.

Senator Guingona. The Republic Act is the Consumers Act.

The President. The Majority Leader is recognized.

Senator Tatad. Mr. President, before the sponsor acts on the proposed amendment, may I ask the sponsor a question. Who will say whether the movie is factual?

Senator Guingona. The Commission on Elections.

Senator Tatad. Will the commission have the competence to say whether every part of a movie is factual or not?

Senator Guingona. It is like the truth in advertising situation. When a product is advertised, if there is a complaint, then it can be brought to the proper authority. And the commission, I think, can look into it, or commission somebody more authoritative to look into the factual background of that candidate. If he does not meet the standards as embodied in that republic act, then the truth will come out somehow.

Senator Tatad. Would it not be advisable to simply prohibit the showing of movies?

Senator Guingona. That may be a curtailment of allowing lawful propaganda if he is really heroic, if he has really won medals, if he has really done heroic acts, if he has escaped.

Senator Tatad. In that case, if the sponsor feels that this should form part of lawful propaganda, should the cost of this propaganda not be imputed to the maximum allowable expenses of this candidate?

Senator Guingona. Yes, Mr. President.

Senator Tatad. Which would be imputed, the entire cost of producing the movie?

Senator Guingona. Yes, Mr. President.

Senator Tatad. Or the value that the viewer would put on this movie?

Senator Guingona. No, the cost.

Senator Tatad. On that understanding, Mr. President...

Senator Roco. Mr. President, could I also ask clarification? The aspect on misleading. Supposing the actor is better-looking than the candidate, is that misleading? It is. Of course, it is misleading. So one cannot be better-looking. Supposing he is uglier than the candidate, will that be all right?

Senator Guingona. The proposal refers to the substance, not to the *poginess*.

Senator Roco. Mr. President, could I ask the distinguished Minority Leader that we will try to have a latter section on prohibited acts if we could agree to that. Because the concept of the present bill is precisely to liberalize. I mean, we may have guidelines.

Right now, I am not in the position to say yes or no, only because movies, to my mind, are covered by the freedom of expression guarantee. And there is a certain element of creative license for movies. Now, if they will be shown before the campaign period, obviously there can be no limits. But if they are shown within the campaign period, then they must be within the coverage of the limitations on expenses. But the question on misleading or being factual or being false is very difficult under certain circumstances, Mr. President, because poetic license can have an influence on the matter.

So I am not saying no to the proposed amendment, but can we isolate all the proposals on prohibited acts as an addition? Maybe after Section 7, on *Rates for Political Propaganda*, we add or lump together, because other colleagues

also have ideas about certain prohibited acts. So we discuss them both in principle and in detail as new Section 8.

Senator Guingona. Yes, Mr. President.

The President. So we defer consideration of the proposed amendment.

Senator Roco. Yes, Mr. President, and we wait for the other colleagues. If there are others who feel that there should be other prohibited acts, then we isolate them and address them. First, in principle, shall we still have prohibited acts so that they are unlawful? Second, if we say yes to that, then we go to the specifics—movies. Why movies? Why not video and similar problem? But if our colleagues can agree, we can proceed now to the consideration of page 1.

The President. Sen. Miriam Defensor Santiago is recognized.

Senator Defensor Santiago. Thank you, Mr. President. I am on page 1, line 15, referring to Section 3 which in summary provides that election propaganda shall be allowed for all political parties, subject to three (3) exceptions: One, the limitation on authorized expenses; two, truth in advertising; and three, supervision and regulation of the Commission.

Since we have placed on my initiative, I might be allowed to add SUPERVISION AND REGULATION OF THE COMMISSION AS A LIMITATION ON LAWFUL ELECTION PROPAGANDA. In effect what we are doing is, we are delegating our legislative power to the Comelec, and the accepted principle is that when we make this kind of delegation, we must observe the principle of sufficiency of standards.

This is the reason I would like to propose an amendment in line 15, after the final clause "supervision and regulation of the Commission." The period (.) should be converted into a comma (,) and then add, after the phrase "of the Commission", the following: WITH PARTICULAR EMPHASIS ON THE STANDARD OF EQUALITY AND IMPARTIALITY IN THE BUYING AND SELLING OF PRINT SPACE AND AIRTIME, AND THE PROHIBITION OF MONOPOLIES IN THE BUYING AND SELLING OF PRIME PRINT SPACE AND AIRTIME.

I am fully aware that there is a Section 5 that follows this section which deals also with the same topic. But I think that there would be no harm in emphasizing that when we delegate our legislative power to the Comelec, it must make sure that it observes the standard of equality and impartiality not only in the buy and sell of print space and airtime but particularly in the buy and sell of prime print space and prime airtime.

Senator Roco. Mr. President, again we are not averse to the idea as proposed. May I just invite the attention of the distinguished lady senator to Section 8. There is a criteria in the authority that we delegate to the commission the promulgation of rules. We do call attention to the criteria established in Article IX-C, Section 4 of the Constitution and Section 86 of the present Omnibus Election Code. But having said that, again, as the lady senator has pointed out, there is a Section 5 on *Equal Access to Media Space and Time*.

So, while I am not averse to the concept, I just have a little difficulty putting it in without making it look awkward. That is my concern. If the lady senator can help craft that into Section 5 or into Section 8 as additional criteria, the committee will be happy to put that either as criteria for Section 5 or under Section 8.

Senator Defensor Santiago. Then I shall bring up this matter again when we are in Section 5.

Senator Roco. Yes, Mr. President.

Senator Defensor Santiago. I am still on page 1, with the permission of the gentleman.

Senator Roco. Of course, Mr. President.

Senator Defensor Santiago. But I am going to propose at least three new sections after Section 3 to be respectively marked as Sections 4, 5, and 6. These new sections that I am proposing are lengthy. So, I will have to beg the indulgence of our colleagues in the Chamber. But I have researched and, in effect, copied them from the election laws of various states of the United States which I shall indicate after I have read the section.

Senator Roco. May we just ask for a copy, Mr. President, so that as the lady senator reads, we can also look at it in greater detail.

The President. The Secretariat is directed to photocopy the amendments proposed by Senator Defensor Santiago, if that will meet her approval.

Senator Defensor Santiago. This copy is available and I will now hand it over to the sponsor.

SUSPENSION OF SESSION

Senator Tatad. Mr. President, I move that we suspend the session for one minute.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 5:46 p.m.

RESUMPTION OF SESSION

At 5:58 p.m., the session was resumed.

The President. The session is resumed. Senator Defensor Santiago is recognized.

Senator Defensor Santiago. Mr. President, please allow me to manifest that as directed, I have distributed copies of my proposed new section after Section 3.

With the permission of the Senate President, I would now like to read the proposed new Section 4. The copy, however, of my proposal that has been distributed to our colleagues does not bear certain corrections that I have made only in the last few minutes. So I shall read it as amended.

"SEC. 4. COMPENSATION PROHIBITED EXCEPT FOR PAID ADVERTISEMENT. -

(1) EXCEPT AS PROVIDED IN SUBSECTION (4), AN OWNER, PUBLISHER, EDITOR, REPORTER, AGENT, OR EMPLOYEE OF ANY NEWSPAPER, ANY OTHER PERIODICAL, OR ANY OTHER FORM OF MEDIA MAY NOT, DIRECTLY OR INDIRECTLY, SOLICIT, RECEIVE OR ACCEPT ANY PAYMENT, PROMISE, OR COMPENSATION FOR INFLUENCING OR ATTEMPTING TO INFLUENCE ANY VOTING AT ANY ELECTION BY MEANS OF ANY PRINTED MATTER IN THAT NEWSPAPER, PERIODICAL, OR BROADCAST, OR ANY OTHER MEANS, WHATSOEVER, IN ANY FORM OF MEDIA.

(2) EXCEPT AS PROVIDED IN SUBSECTION (4), A PERSON MAY NOT PAY, PROMISE TO PAY, OR IN ANY MANNER COMPENSATE ANY OWNER, PUBLISHER, EDITOR, REPORTER, AGENT, OR EMPLOYEE OF A NEWSPAPER, ANY OTHER PERIODICAL, OR ANY OTHER FORM OF MEDIA, DIRECTLY OR INDIRECTLY, FOR INFLUENCING OR ATTEMPTING TO INFLUENCE ANY VOTING AT ANY ELECTION BY MEANS OF ANY PRINTED MATTER IN THAT NEWSPAPER OR PERIODICAL, OR ANY BROADCAST, OR THROUGH ANY OTHER MEANS WHATSOEVER.

(3) EXCEPT AS PROVIDED IN SUBSECTION (4), DURING THE CAMPAIGN AND ELECTION PERIODS, IT SHALL BE ILLEGAL TO PUBLISH PHOTOS OR NEWS

ITEMS ABOUT PUBLIC APPEARANCES OR POSITION STATEMENTS OF CANDIDATES, EXCEPT AS FEATURES OR BROADCASTS IN THE NEWSPAPER, PERIODICAL, MAGAZINE, TELEVISION, OR RADIO STATION'S REGULAR SECTION ON THE ELECTION PROCESS; PROVIDED THAT, PHOTOS AND NEWS ITEMS SHALL BE REGULARLY ROTATED ON AN EQUAL BASIS AMONG ALL CANDIDATES IN SUCH REGULAR SECTION.

DURING THE CAMPAIGN AND ELECTION PERIOD, WHENEVER AN OPINION COLUMN OR EDITORIAL FEATURE ENDORSING OR CRITICIZING A CANDIDATE IS PUBLISHED IN A NEWSPAPER, MAGAZINE, PERIODICAL OR IS AIRED ON TELEVISION OR RADIO, IT SHALL CONTAIN AN ADDITIONAL SECTION WHICH SHALL ENUMERATE THE NAMES OF ALL OTHER CANDIDATES FOR THE SAME ELECTIVE POSITION, IF THE OPINION COLUMN OR EDITORIAL FEATURE ENDORSES ONE CANDIDATE.

(4) THE PROHIBITIONS CONTAINED IN THIS SECTION DO NOT APPLY IF THE MATTER IS INSERTED IN THE NEWSPAPER, PERIODICAL OR ANY OTHER FORM OF MEDIA AS A PAID POLITICAL ADVERTISEMENT AND IS IDENTIFIED AS SUCH.

That is the totality of the proposed Section 4.

As indicated, my sources are the election laws of Minnesota (211B.05), Utah (20A-11-102) and MDS amendment.

I would like to explain that since we are now lifting the political ad ban, all candidates shall be free under certain restrictions to take out paid advertisements and those paid advertisements must be identified as such.

I am thinking of the possibility or probability of the corrupt candidate and the corrupt media practitioner who might wish to circumvent the provision of our present bill in the form of an editorial, an editorial feature or an alleged opinion column in the print media or in the form of a block-time commentator or political analysis in the broadcast media that would be a way of circumventing our cap or our ceiling on how much money a candidate can spend.

Furthermore and more importantly, this is a way of circumventing our standard of impartiality and equality.

Thus, this section, in effect, prohibits both the offer or the profferance and the acceptance of compensation except for paid advertisement.

In the case of stories about position statements issued by a candidate or his normal public appearances, short of a

catastrophe, which would in itself be newsworthy, I am proposing in paragraph 3 that there should be a regular feature in whatever media outlet is involved, making the coverage universal or rotating on a regular basis these kinds of features or items so that these cannot be used to circumvent the purpose and the intent and the other provisions of this bill.

Some of the newspapers have already featured such regular sections which, in effect, are the dumping ground for the press releases of candidates.

What we want to avoid is for the corrupt candidate to bribe a corrupt media practitioner by getting further political advertising for himself in the front page in the guise of visiting a public market or indulging in any other routine, ordinary activities of elections.

Senator Roco. If the distinguished lady senator is through...

Senator Defensor Santiago. Yes, Mr. President.

Senator Roco. Again, Mr. President, I will ask for a little time to try to combine these proposals with the other portions on prohibitions.

During the break, Mr. President... Again, I think, subparagraphs (3) and (4) are immediately acceptable in concept, but it seems advisable to put together all the prohibitions in a separate section.

Among them, for instance—and there was some consensus earlier, Mr. President—movies about the life of a candidate should not be allowed during the election period. For that matter, if a candidate is in the movies or if he is in the media, he must refrain from that position during the election period.

I thought that was in the discussions. And apparently, that is in any event the practice of those in media. So that should not alarm anyone.

As to the other prohibition suggested, all we want, Mr. President, is a little time to combine this. So if the lady senator would be so kind...

Senator Defensor Santiago. I am certainly amenable.

Senator Roco. Thank you, Mr. President. But it is good to put them all on record now so that the committee can try to maneuver between the shores and see where the consensus lies.

Senator Guingona. Mr. President.

The President. The Minority Leader is recognized. What is the pleasure of the Minority Leader?

Senator Guingona. Just for some questions, Mr. President, to the proponent, if the lady senator will yield.

Senator Defensor Santiago. Yes, Mr. President.

Senator Guingona. The source of these election laws are the states of Minnesota and Utah. This has not been adopted by the federal law of the US.

Senator Defensor Santiago. No, because in the American system, there is no federal law regulating campaigns. This is left as a matter of discretion on the part of the various states. Each state has a different system.

Senator Guingona. I would like to thank the lady senator for that answer.

Are the columnists not included in the prohibitions contemplated in Section 41, subparagraph 2?

Senator Defensor Santiago. The columnists are included under subsection 3, second paragraph.

Senator Guingona. Subsection 1 does not include the columnists.

Senator Defensor Santiago. No, it does not include the columnists.

Senator Guingona. Likewise with subsection 2.

Senator Defensor Santiago. The gentleman is correct in pointing this out. I do not see why a columnist must be excluded since what we are trying to punish is the act of circumventing the bill. If the question seeks to include opinion columnists, whether in print or in broadcast media, I have no objection.

Senator Guingona. I would like to thank the lady senator for that answer.

What about the newspaper? If the newspaper has a certain stand either for or against a party or a candidate, would it be inhibited under these provisions from officially making a stand in favor of certain candidates?

Senator Defensor Santiago. No, Mr. President. There will be no inhibition on the freedom of expression and particularly on the freedom of the press under Section 4. What we

simply want them to do is this: They can take partisan positions for or against a certain candidate. But they must do so only in items identified as editorials or editorial features or opinion columns. When they do so, they can attack or they can compliment or defend the candidate involved as they wish but when they attack one candidate, they must add, let us say, one sentence that says: "Candidate X whom I just praised is running for the post of congressman, a post which is also contested by" and then they must write the names of all the other candidates for that position.

So, in effect, we are trying to dilute the effect of corruption on the editor or the owner possibly even of the media outlet or of the opinion columnist. He can sell himself or his newspaper or his media outlet to the candidate with sufficient money to buy him but the law will require the editor or the opinion columnist to at least mention the names of the other candidates for the same position.

Senator Guingona. As far as the third item is concerned, this does not prohibit legitimate news items. For example, an incumbent president campaigning or an incumbent governor campaigning for office for his reelection has official functions which naturally make up the news and so this No. 3 subsection will not apply.

Senator Defensor Santiago. If we are talking already of the campaign period, which even precedes the election period, then the prohibition would apply because anything that the person does, whether he is the incumbent or not, is already geared towards his election to a certain public office. Therefore, his normal public appearances should not be a means of giving him free additional political advertising but the media outlet would still have the freedom to print or broadcast those activities as long as these are under a regular section devoted to the election process. It cannot be given prominence, for example, in another part of the newspaper. It can be found only in that particular section. Some newspapers have called this section "election roundup" and I have noticed that they would print press releases from all the various political candidates who have been twisting their arms. That is what we are trying to institutionalize.

Senator Guingona. Yes. Therefore, the newspaper cannot publish what is official function of an incumbent governor seeking reelection?

Senator Defensor Santiago. No, it cannot. Because the presumption is that when the candidate, whether he is the incumbent or not, undertakes his public activities, he is doing so with the full intent of buttressing or supporting his election or reelection bid. The presumption is against him. However,

if the news item is independently newsworthy, for example, it is not a mere case of holding a rally or a motorcade or issuing a position on a certain controversial national policy issue, but if the candidate does something extraordinary or falls off a cliff, then that would not fall under this prohibition.

What I am trying to prevent by this proposal is for a newspaper that has taken an editorial position in favor of a particular candidate using the front page and the rest of the news pages of the newspaper to manipulate the mind of the reader in favor of the candidate. The newspapers would still enjoy their freedom of the press in publishing or broadcasting the material, but they must identify it to the reader as such—by featuring it under a regular section devoted to such items.

Senator Guingona. I see. As proposed by the distinguished sponsor, Mr. President, we have other questions which we will ask later on when this is segregated from the prohibited acts.

Senator Roco. While we are at it though, Mr. President, since I have time to browse through it twice while the discussion was going on, may we ask our friend: Philosophically, would it be the position of the proponent that newspapers may not declare support for or against the candidate? Is that the philosophical basis for this?

Senator Defensor Santiago. No. In fact, I have already categorically replied to the previous gentleman's question that the newspaper, the media outlet, is completely free to take a position with respect to a particular candidacy. It can either endorse or it can attack or criticize. However, it can do so only through its regular editorials or through its regular opinion columns and not in the news pages. Because to employ the news page as a medium for conveying to the reader the political preferences of the newspaper or the media outlet concerned would be unfair since the reader would be caught by surprise. He is not being told that this is being done because the newspaper is in favor of the candidate so he will tend to believe that what he is reading or seeing or hearing is legitimate news.

Senator Roco. And the Comelec will police this matter—

Senator Defensor Santiago. Yes, Mr. President.

Senator Roco. —that a news item is supposed to be biased?

Senator Defensor Santiago. Yes. It is only news that we are talking about. We are not talking about legitimate sections of the media outlet devoted to opinions.

Senator Roco. Would we not have constitutional problems of censorship or prior restraint considering that a news item can be written in many ways?

Senator Defensor Santiago. That is correct. But if the Supreme Court has upheld censorship laws on the ground that the interests of the public must be protected, then that argument would apply equally to our present situation, in fact, with more urgency because we are dealing with elections of the next generation of public officials.

Senator Roco. Subsections 1 and 2 appear to be just two aspects of the same prohibitions. One, a person cannot solicit or accept payment if he is an editor, publisher, et cetera, to influence elections; and, two, to implement it the other way, that no person may therefore pay an editor, writer or publisher so that they will influence the election one way or the other. That is fairly clear to me. But would the lady senator know of instances when this happened that owner, publisher, editor, reporter or agent solicited so that they would influence voting?

Senator Defensor Santiago. The language used is "may not directly or indirectly solicit, receive or accept."

If one is a candidate and he is reading a major daily, and he sees that his rival or rivals are getting prominent play in the front page of that newspaper day after day and he is not getting any, he sees that his press releases are getting stuck in some obscure inner page, then that is, in effect, a message to him that he had better be on his toes. I imagine, he would probably send his person to the editor or to the media practitioner concerned and make an offer of, let us say, a tribute that is so obviously being called for by the situation.

Senator Roco. Yes, Mr. President. Those are the policy questions that I am grappling with.

As for subsection 3 I think the equal-exposure provision has good basis for being considered favorably because it says that during the campaign in election period, he may not publish these photos or public appearances, and that if done, they must be rotated.

But again, while there does not seem to be a major objection to that, will we not be intruding into the right of publishers or editors of newspapers to print whatever picture they feel they have to print? That is my problem with the three, although the second paragraph of mentioning the names again seems to give equal opportunity.

But in the senatorial case in 1992, there were 160 of us running. In 1995, there were 47. So that will be easily five

paragraphs. When we mention one name, we mention all the rest. And having mentioned all the rest anyway, it becomes useless when we are lumped together with everybody else.

That is my problem also, Mr. President. As we dwell on it, I wish our distinguished lady senator from Iloilo will therefore also dwell on those policy considerations.

Senator Defensor Santiago. Yes, I will. On the question of intrusion, there can be no denying that this will definitely result in an intrusion on editorial discretion. But if our Supreme Court has upheld a total political ad ban, then I am quite certain that the Supreme Court will uphold these significantly less intrusive restrictions on the freedom of the press.

Senator Pimentel. Mr. President.

The President. What is the pleasure of Senator Pimentel?

Senator Pimentel. With the permission of the Chair and the lady senator, may I go back to paragraph 2 of Section 4.

This prohibition is directed at prohibiting, restricting or disallowing a person to pay, promise to pay or in any manner compensate the owner, publisher, editor, reporter of a newspaper.

Now, supposing it is a voluntary act of the owner of the newspaper, can we cover his bias, for example, against certain candidates or in favor of certain candidates in any of the other provisions here?

Senator Defensor Santiago. I am sorry, I did not get the question. But maybe it might be partly responsive if I repeat that we do not prevent the owner or the editor from expressing a preference for or maybe a hostility to any candidate as long as this is done in the editorial section or in the opinion column. As long as this is done in the op-ed section but not in the front pages because that, for me, is a violation of the journalistic code of ethics. After all, they are supposed to give the truth to the reader. And they should not do so in the guise of news when actually they are campaigning for a certain person. They must do so in the properly denominated page—in the editorial page or in the opinion page, but not in the front news pages.

Senator Pimentel. In any event, I am worried about the possibility that an owner, publisher, editor of a newspaper, for example, can attempt to influence any voting at any election or primer by any means of printed matter in that newspaper or periodical. If there is no, shall we say, time frame within which he is prohibited from doing so, that means up to the very day before the elections, he can come up with a biased reportage in favor of or against a certain candidate.

But I understand, Mr. President, that what the lady senator is trying to say is that the bias should not appear on the front pages but it may appear in the op-ed pages.

Senator Defensor Santiago. That is correct. With the indulgence of the gentleman, what we are trying to protect is, let us say, a fresh face, a young graduate, maybe an honor graduate of the University of the Philippines who is idealistic and fully intent on remaining honest, only wishing to serve the public, and he is up against an extremely rich candidate or an incumbent candidate who knows all the tricks of political campaigning or against a media personality. What chance would he have? The incumbent would most likely be able to "persuade" the owner or the publisher or the media practitioner. But this new graduate would not have that opportunity. He can never, therefore, be endorsed officially by a media outlet since he would have had no prior wisdom in currying favor with them.

He should at least have fair play in the front pages, in the news pages because the journalistic practitioner is required to observe impartiality in reporting the news. A partial news item is an oxymoron; it is a contradiction in terms. So we just want the media people to comply, to abide by their own code of ethics. They are completely free with respect to their editorial and opinion sections.

Senator Roco. Yes. Just by way of a final observation, Mr. President, since we will set this back a little.

Our committee will always be guided by the three policy goals—right of the people to be informed, the freedom of the press, and the protection of a bona fide candidate from undue harassment.

That is very difficult. It is one of the rare laws where we have three equally valid policy goals. Right now, the way this is worded—and we are glad that the lady senator would also work with us in trying to, maybe, modify some of the wordings—it seems we might really be intruding even on editorial policy. Our committee right now does not find anything wrong with the newspaper being for somebody. I mean, I doubt if many newspapers would so declare. I will use American newspapers so that we do not have to refer to the local newspapers. But some Washington papers are clearly Republican, some are clearly Democratic, some are clearly pro-Jewish and some are clearly pro something else or pro-Hispanic and that bias goes to the nature of the publication.

So we will look at this again, Mr. President, with the gracious consent of the lady senator, in terms of the other prohibitions, and we will try to isolate them so that the debate

and analysis of these prohibitions can be properly appreciated.

Senator Defensor Santiago. Yes, Mr. President. I would be happy if these proposals are considered as preliminary draft or as working draft.

Senator Roco. We do appreciate it, Mr. President, because the committee, having worked for quite some time, has been meeting precisely on these very difficult philosophical questions.

May we proceed to the subsequent amendment, as proposed, so that the committee has full cognizance of the amendments.

DEFENSOR SANTIAGO AMENDMENTS

Senator Defensor Santiago. Yes. I propose that we should insert a new Section 5 to read as follows:

SEC. 5. PAID ADVERTISEMENTS TO BE IDENTIFIED AS SUCH. - (1)...

The President. What section?

Senator Defensor Santiago. A new Section 5.

The President. The Chair does not have a copy of the proposed Section 5.

Senator Defensor Santiago. It is part of the copy of the three new sections that I am proposing.

The President. Is it on page 3, Senator Defensor Santiago?

Senator Roco. There is a two-page paper, Mr. President, that is being distributed by the staff.

The President. May the Chair have a copy of this proposed Section 5.

Senator Roco. Yes, I suspect that the Chair is also entitled to a copy. *[Laughter]*

The President. All right.

Senator Defensor Santiago. SEC. 5. PAID ADVERTISEMENTS TO BE IDENTIFIED AS SUCH. -- (1) A NEWSPAPER, PERIODICAL, OR MAGAZINE MAY NOT INTENTIONALLY ACCEPT FOR INSERTION IN THE NEWSPAPER, MAGAZINE, OR PERIODICAL A POLITICAL ADVERTISEMENT UNLESS THE WORDS "PAID POLITICAL

ADVERTISEMENT" ARE INCLUDED AT THE BEGINNING OR END OF THE ADVERTISEMENT. A RADIO STATION, TELEVISION STATION, OR CABLE SYSTEM MAY NOT ACCEPT FOR BROADCAST A POLITICAL ADVERTISEMENT UNLESS THE WORDS "PAID POLITICAL ADVERTISEMENT" ARE INCLUDED AT THE BEGINNING OR END OF THE ADVERTISEMENT.

IN ADDITION, SUCH ADVERTISEMENT SHALL IDENTIFY PERSONS OR ORGANIZATIONS SPONSORING THE ADVERTISEMENT AND SHALL STATE:

(A) WHETHER THE ADVERTISEMENT AND THE COST OF PRODUCTION IS PAID FOR OR PROVIDED IN KIND BY OR AT THE EXPENSE OF THE ENTITY PUBLISHING, DISPLAYING, BROADCASTING, OR CIRCULATING THE POLITICAL ADVERTISEMENT; OR

(B) WHO PROVIDED OR PAID FOR THE ADVERTISEMENT AND COST OF PRODUCTION, IF DIFFERENT FROM THE SOURCE OF SPONSORSHIP.

THIS SUBSECTION SHALL NOT APPLY IF THE SOURCE OF THE SPONSORSHIP IS PATENTLY CLEAR FROM THE CONTENT OR FORMAT OF THE POLITICAL ADVERTISEMENT OR CAMPAIGN LITERATURE.

(2) ANY POLITICAL ADVERTISEMENT OF A CANDIDATE RUNNING FOR PARTISAN OFFICE SHALL STATE THE NAME OF THE POLITICAL PARTY OF WHICH THE CANDIDATE IS SEEKING NOMINATION OR IS THE NOMINEE. IF THE CANDIDATE FOR PARTISAN OFFICE IS RUNNING AS AN INDEPENDENT CANDIDATE, ANY POLITICAL ADVERTISEMENT OF THE CANDIDATE MUST STATE THAT THE CANDIDATE IS AN INDEPENDENT CANDIDATE.

(3) IT IS UNLAWFUL FOR ANY CANDIDATE OR PERSON ON BEHALF OF A CANDIDATE TO REPRESENT THAT ANY PERSON OR ORGANIZATION SUPPORTS SUCH CANDIDATE, UNLESS THE PERSON OR ORGANIZATION SO REPRESENTED HAS GIVEN SPECIFIC APPROVAL IN WRITING TO THE CANDIDATE TO MAKE SUCH REPRESENTATION. HOWEVER, THIS SUBSECTION DOES NOT APPLY TO:

(A) EDITORIAL ENDORSEMENT BY ANY NEWSPAPER, RADIO OR TELEVISION STATION, OR OTHER RECOGNIZED NEWS MEDIUM;

(B) PUBLICATION BY A PARTY COMMITTEE ADVOCATING THE CANDIDACY OF ITS NOMINEES.

(4)(A) ANY POLITICAL ADVERTISEMENT, INCLUDING THOSE PAID FOR BY A POLITICAL PARTY, OTHER THAN AN INDEPENDENT EXPENDITURE, OFFERED BY OR ON BEHALF OF A CANDIDATE MUST BE APPROVED IN ADVANCE BY THE CANDIDATE. SUCH POLITICAL ADVERTISEMENT MUST EXPRESSLY STATE THAT THE CONTENT OF THE ADVERTISEMENT WAS APPROVED BY THE CANDIDATE AND MUST STATE WHO PAID FOR THE ADVERTISEMENT. THE CANDIDATE SHALL PROVIDE A WRITTEN STATEMENT OF AUTHORIZATION TO THE NEWSPAPER, RADIO STATION, TELEVISION STATION, OR OTHER MEDIUM FOR EACH SUCH ADVERTISEMENT SUBMITTED FOR PUBLICATION, DISPLAY, BROADCAST, OR OTHER DISTRIBUTION.

(B) ANY PERSON WHO MAKES AN INDEPENDENT EXPENDITURE FOR A POLITICAL ADVERTISEMENT SHALL PROVIDE A WRITTEN STATEMENT THAT NO CANDIDATE HAS APPROVED THE ADVERTISEMENT TO THE NEWSPAPER, RADIO STATION, TELEVISION STATION, OR OTHER MEDIUM FOR EACH SUCH ADVERTISEMENT SUBMITTED FOR PUBLICATION, DISPLAY, BROADCAST, OR OTHER DISTRIBUTION. THE ADVERTISEMENT MUST ALSO CONTAIN A STATEMENT THAT NO CANDIDATE HAS APPROVED THE ADVERTISEMENT.

(5) ANY POLITICAL ADVERTISEMENT WHICH IS PUBLISHED, DISPLAYED, OR PRODUCED IN A LANGUAGE OTHER THAN ENGLISH MAY PROVIDE THE INFORMATION REQUIRED BY THIS SECTION IN THE LANGUAGE USED IN THE ADVERTISEMENT.

(6) THIS SECTION DOES NOT APPLY TO CAMPAIGN MESSAGES USED BY A CANDIDATE AND THE CANDIDATE'S SUPPORTERS IF THOSE MESSAGES ARE DESIGNED TO BE WORN BY A PERSON.

The source of this proposed new Section 5 is the Election Laws of Alabama, California and Florida.

Senator Roco. Yes, Mr. President. I was reading ahead of the lady senator and essentially, as I understand the proposal, it must identify the source of the advertisement. Under the present law which we have proposed to be deleted, the paid-for identification of the source of the advertisement or who paid is, in any event, a requirement.

Beyond that, Mr. President, I have a little problem with the other details as a potential candidate, because adding requirements or all these information, especially if one is limited to one-eighth of a page, will clutter the message. So now, it is no longer the freedom of the press that I am having problems

with. It is the right of the people to be informed, but overinformation can becloud the message. It is also the right of the candidate to be as clear as possible. Maybe, he just wants to say public service or whatever. But with all these impositions, one will have a one-eighth page with many footnotes. So one tends to becloud the intent of the message. But if the intention is to just identify—who paid and who authorized the advertisement, and if they are not authorized, if it is an independent creature seeing his best opinion, selling his best opinion that we say so, then in principle, Mr. President, that can be accepted.

Senator Defensor Santiago. The summary of the thrust of this section has been correctly stated by the sponsor, and we have no objection or major amendment except to add the note that the law, in any event, will not require the candidate to use the same typesize in adding this information to his political advertisement. He can, as the sponsor himself said, include it in the form of a footnote. Meaning to say, in much smaller type than is used by the propaganda text itself.

Senator Roco. Yes. The committee, Mr. President, accepts the concept of identifying who paid for the advertisement and who authorized the advertisement.

So, subject to style, Mr. President, we can...

Again, Mr. President, the other effort in the present Section 5 of having one-eighth, although I understand the print media accepts that this can be larger... The other intention is to give equal exposure to as many of the candidates. The reason for one-eighth is that if there are 24 candidates, so there are eight per page. So we occupy already three pages, if everybody wants to advertise three pages of advertisement in one broadsheet. So we put the limitation of one-eighth not exceeding two days per week so that we can rotate. So that one will have his page 2 exposure today and maybe on Friday, he will have another page 2, but maybe next week, he is on page 18, for all I care.

But again in principle, Mr. President, our distinguished friend can work with the committee to compress this, identifying the source of payments in principle with some annotations that may be required. The negative advertisements should also be identified. I mean, somebody can be out just to torpedo someone and say, he is doing it all by his merry self.

On that basis, Mr. President, with those limitations, we can accept the concept of identifying the sources of paid advertisements.

Senator Defensor Santiago. I agree, Mr. President.

The President. May the Chair be informed if the author or the proponent would redraft the proposed amendment, or do we accept the amendment, subject to style?

Senator Roco. With the consent of the distinguished lady senator, we will try to compress it so that the agreement in principle on identifying the sources of payments is clearly stated.

The President. Do we act on the proposed amendment now or do we wait for the proposed compressed amendment?

Senator Roco. If our colleagues will accept it, subject to style, on that principle, then we will submit the wordings eventually. But for purposes of debate, unless somebody wants to raise it later on, identifying the source of money for an advertisement is I think an appropriate rule.

The President. All right. So with that understanding, is there any objection to the proposed amendment which will appear as Section 5 on page 1? *[Silence]* There being none, the amendment is approved.

Senator Defensor Santiago. Mr. President, I shall proceed to the new Section 6 unless directed otherwise.

Senator Roco. Yes, Mr. President.

Senator Defensor Santiago.

SECTION 6. UNPAID MATERIAL IDENTIFICATION. -- UNPAID MATERIAL PUBLISHED IN A NEWSPAPER, MAGAZINE, OR OTHER PUBLICATION THAT IS IN UNIQUE TYPESET OR OTHERWISE DIFFERENTIATED FROM OTHER UNPAID MATERIAL DESIGNED TO INFLUENCE OR ATTEMPT TO INFLUENCE THE VOTING AT ANY ELECTION OR THE PASSAGE OR DEFEAT OF LEGISLATION, AND NOT PLACED ON THE EDITORIAL PAGE MUST BE CLEARLY IDENTIFIED AS AN EDITORIAL OPINION.

Mr. President, this is one more manifestation of the intellectual concept that I have been advocating all along. Parenthetically, we copied this from the Election Law of Minnesota and the concept is this: The viewer, reader, or the listener must know whether what he is being exposed to is news for he has a right to presume that the news is factual and truthful or what he is being exposed to is editorial opinion. We do not seek to restrict the expression of either news or editorial opinion for as long as the recipient is properly advised about the nature of what he is being exposed to. He should know clearly whether he is being exposed to news or he is being exposed to editorial opinion.

Senator Roco. Mr. President, the committee will request that this be considered as part of the conceptual framework of the proposed Section 4 which we originally discussed.

Again, Mr. President, we just want to mull over the potential threat to press freedom in this regard. So it is part of the debate on the compensation prohibited, except for paid advertisement. If we can treat them together with the other proposal which we earlier agreed will be put together as part of a set of prohibition, that will be fine because the issue will be the same. Are we intruding into press freedom?

The President. What is the pleasure of the Minority Leader?

Senator Guingona. Mr. President, the proposed amendments are a little weighty. May we have a little time to go over them?

Senator Defensor Santiago. I have no objection, Mr. President. Yes, I agree definitely that they need time for thought and I would welcome improvements on these preliminary and working drafts that I am submitting. I believe that the legislative pages have distributed not only the three new proposed sections but the rest of my amendments as well. So I welcome any move to allow our colleagues enough time to study them.

SUSPENSION OF SESSION

Senator Tatad. Mr. President, I move that we suspend the session for one minute.

The President. The session is suspended for one minute, if there is no objection. *[There was none.]*

It was 6:39 p.m.

RESUMPTION OF SESSION

At 6:41 p.m., the session was resumed.

The President. The session is resumed.

Senator Defensor Santiago. Mr. President, I have an amendment paper numbering 19 pages. I understand that the legislative pages on the floor have distributed my amendment paper only up to page 17 and I hereby commit that I shall make available copies of pages 18 to 19 to our colleagues at the earliest opportunity.

Senator Roco. We do have copies of pages 18 and 19.

**MANIFESTATION OF SENATOR DEFENSOR SANTIAGO
(That Her 19-Page Amendment Paper Be Considered
as Having Been Entered into the Record)**

Senator Defensor Santiago. In that case, then I shall amend my manifestation to say that my amendment paper consisting of 19 pages have already been distributed to our colleagues and we feel that since this has already been made accessible to everyone of our colleagues, it is no longer necessary to read them individually. I will instead move that they should be considered as having been entered into the *Record* and that these proposed amendments are now in the official cognizance of the committee and which can use these according to its considered judgment on condition that these shall be presented on the floor when the opportunity presents itself to the committee chair.

Senator Roco. Yes, Mr. President. I think just to abbreviate the proceedings, an omnibus motion that it is all fully submitted will be in order, and if it is acceptable, the committee can respond to it with the help and assistance of the proponent and our other colleagues.

Senator Tatad. We submit the motion, Mr. President.

The President. All right. The amendment paper of Sen. Miriam Defensor Santiago is considered read into the *Record* of the Senate and should be reflected in the *Journal* of this session as having been presented on the floor to the committee for the committee's consideration. The Secretariat is so directed.

The following is the written amendment paper submitted by Sen. Miriam Defensor Santiago:

PAGE 1
Line 15

Insert a new Section 5:

SEC. 5. PAID ADVERTISEMENTS TO BE IDENTIFIED AS SUCH. - (1) A NEWSPAPER, PERIODICAL, OR MAGAZINE MAY NOT INTENTIONALLY ACCEPT FOR INSERTION IN THE NEWSPAPER, MAGAZINE, OR PERIODICAL A POLITICAL ADVERTISEMENT UNLESS THE WORDS "PAID POLITICAL ADVERTISEMENT," ARE INCLUDED AT THE BEGINNING OR END OF THE ADVERTISEMENT. A RADIO STATION, TELEVISION STATION, OR CABLE SYSTEM MAY NOT ACCEPT FOR BROADCAST A POLITICAL

ADVERTISEMENT UNLESS THE WORDS "PAID POLITICAL ADVERTISEMENT" ARE INCLUDED AT THE BEGINNING OR END OF THE ADVERTISEMENT.

IN ADDITION, SUCH ADVERTISEMENT SHALL IDENTIFY PERSONS OR ORGANIZATIONS SPONSORING THE ADVERTISEMENT AND SHALL STATE:

(A) WHETHER THE ADVERTISEMENT AND THE COST OF PRODUCTION IS PAID FOR OR PROVIDED IN KIND BY OR AT THE EXPENSE OF THE ENTITY PUBLISHING, DISPLAYING, BROADCASTING, OR CIRCULATING THE POLITICAL ADVERTISEMENT, OR

(B) WHO PROVIDED OR PAID FOR THE ADVERTISEMENT AND COST OF PRODUCTION, IF DIFFERENT FROM THE SOURCE OF SPONSORSHIP.

THIS SUBSECTION SHALL NOT APPLY IF THE SOURCE OF THE SPONSORSHIP IS PATENTLY CLEAR FROM THE CONTENT OR FORMAT OF THE POLITICAL ADVERTISEMENT OR CAMPAIGN LITERATURE.

(2) ANY POLITICAL ADVERTISEMENT OF A CANDIDATE RUNNING FOR PARTISAN OFFICE SHALL STATE THE NAME OF THE POLITICAL PARTY OF WHICH THE CANDIDATE IS SEEKING NOMINATION OR IS THE NOMINEE. IF THE CANDIDATE FOR PARTISAN OFFICE IS RUNNING AS AN INDEPENDENT CANDIDATE, ANY POLITICAL ADVERTISEMENT OF THE CANDIDATE MUST STATE THAT THE CANDIDATE IS AN INDEPENDENT CANDIDATE.

(3) IT IS UNLAWFUL FOR ANY CANDIDATE OR PERSON ON BEHALF OF A CANDIDATE TO REPRESENT THAT ANY PERSON OR ORGANIZATION SUPPORTS SUCH CANDIDATE, UNLESS THE PERSON OR ORGANIZATION SO REPRESENTED HAS GIVEN SPECIFIC APPROVAL IN WRITING TO THE CANDIDATE TO MAKE SUCH REPRESENTATION. HOWEVER, THIS SUBSECTION DOES NOT APPLY TO:

(A) EDITORIAL ENDORSEMENT BY ANY NEWSPAPER, RADIO OR TELEVISION STATION, OR OTHER RECOGNIZED NEWS MEDIUM;

(B) PUBLICATION BY A PARTY COMMITTEE
ADVOCATING THE CANDIDACY OF ITS
NOMINEES.

PAGE 1
Line 15

(4)(A) ANY POLITICAL ADVERTISEMENT,
INCLUDING THOSE PAID FOR BY A POLITICAL
PARTY, OTHER THAN AN INDEPENDENT
EXPENDITURE, OFFERED BY OR ON BEHALF OF A
CANDIDATE MUST BE APPROVED IN ADVANCE
BY THE CANDIDATE. SUCH POLITICAL
ADVERTISEMENT MUST EXPRESSLY STATE
THAT THE CONTENT OF THE ADVERTISEMENT
WAS APPROVED BY THE CANDIDATE AND MUST
STATE WHO PAID FOR THE ADVERTISEMENT.
THE CANDIDATE SHALL PROVIDE A WRITTEN
STATEMENT OF AUTHORIZATION TO THE
NEWSPAPER, RADIO STATION, TELEVISION
STATION, OR OTHER MEDIUM FOR EACH
SUCH ADVERTISEMENT SUBMITTED FOR
PUBLICATION, DISPLAY, BROADCAST, OR OTHER
DISTRIBUTION.

(B) ANY PERSON WHO MAKES AN
INDEPENDENT EXPENDITURE FOR A POLITICAL
ADVERTISEMENT SHALL PROVIDE A WRITTEN
STATEMENT THAT NO CANDIDATE HAS
APPROVED THE ADVERTISEMENT TO THE
NEWSPAPER, RADIO STATION, TELEVISION
STATION, OR OTHER MEDIUM FOR EACH
SUCH ADVERTISEMENT SUBMITTED FOR
PUBLICATION, DISPLAY, BROADCAST, OR
OTHER DISTRIBUTION. THE ADVERTISEMENT
MUST ALSO CONTAIN A STATEMENT THAT
NO CANDIDATE HAS APPROVED THE
ADVERTISEMENT.

(5) ANY POLITICAL ADVERTISEMENT
WHICH IS PUBLISHED, DISPLAYED, OR PRODUCED
IN A LANGUAGE OTHER THAN ENGLISH
MAY PROVIDE THE INFORMATION REQUIRED
BY THIS SECTION IN THE LANGUAGE USED
IN THE ADVERTISEMENT.

(6) THIS SECTION DOES NOT APPLY TO
CAMPAIGN MESSAGES USED BY A CANDIDATE
AND THE CANDIDATE'S SUPPORTERS IF
THOSE MESSAGES ARE DESIGNED TO BE WORN
BY A PERSON.

Source: Election laws of Alabama (17-22A-12), Cali-
fornia (Sec. 20008), Florida (F.S. 106.143 (I)) and MDS
amendment.

Insert a new Section 6:

SEC. 6. UNPAID MATERIAL IDENTIFICATION.-
UNPAID MATERIAL PUBLISHED IN A
NEWSPAPER, MAGAZINE, OR OTHER PUBLIC-
ATION THAT IS: (1) IN UNIQUE TYPESET OR
OTHERWISE DIFFERENTIATED FROM OTHER
UNPAID MATERIAL, (2) DESIGNED TO INFLUENCE
OR ATTEMPT TO INFLUENCE THE VOTING AT
ANY ELECTION OR THE PASSAGE OR DEFEAT OF
LEGISLATION, AND NOT PLACED ON THE
EDITORIAL PAGE MUST BE CLEARLY IDENTIFIED
AS AN EDITORIAL OPINION.

Source: Election Law of Minnesota (211B.05).

PAGE 2
Line 12

Section 4, Subsection 4.2(C)

Insert the phrase THE DATE ON WHICH OR THE
PERIOD DURING WHICH THE SURVEY WAS
CONDUCTED at the beginning of the subsection, and
delete the word "and" at the end of the subsection so
that it reads:

(C) THE DATE ON WHICH OR THE PERIOD
DURING WHICH THE SURVEY WAS CONDUCTED,
[T]HE METHODOLOGY USED, INCLUDING THE
NUMBER OF INDIVIDUAL RESPONDENTS...ASKED;

Source: Canada Election Act, Part 16, Section 326.

PAGE 2
Line 14
Section 4

Insert new subsections (D), (E) & (F) and change the
letter of the succeeding subsection accordingly:

(D) THE MARGIN OF ERROR FOR THE SURVEY;

(E) FOR EACH QUESTION FOR WHICH THE
MARGIN OF ERROR IS GREATER THAN
THAT REPORTED UNDER PARAGRAPH (E),
THE MARGIN OF ERROR FOR THE QUESTION;

(F) A MAILING ADDRESS AND TELEPHONE
NUMBER, INDICATING IT AS THE ADDRESS OR

TELEPHONE NUMBER AT WHICH THE SPONSOR CAN BE CONTACTED TO OBTAIN A WRITTEN REPORT REGARDING THE SURVEY IN ACCORDANCE WITH SUBSECTION 4.3; AND

Source: Revised Statutes of British Columbia 1996, Chapter 106, Section 235.

PAGE2
Line 16
Section 4

Insert a new paragraph:

DURING AN ELECTION PERIOD, ANY PERSON, CANDIDATE OR ORGANIZATION WHO PUBLISHES THE RESULTS OF A SURVEY THAT IS NOT BASED ON RECOGNIZED STATISTICAL METHODS TO THE PUBLIC MUST INDICATE THAT THE SURVEY WAS NOT BASED ON RECOGNIZED STATISTICAL METHODS.

Source: Canada Elections Act, Part 16, Section 327.

PAGE2
Lines 16 to 21
Section 4

Designate lines 16 to 19 as subsection 4.3 and lines 20 to 21 as subsection 4.4.

Explanation: This is for easy reference in connection with the previous amendment requiring the inclusion of the survey sponsor's contact information whenever a survey is published.

PAGE2
Line 18
Section 4

After the word "political party" insert a comma, and after the word "candidate" insert a comma and the phrase ANY COMELEC ACCREDITED CITIZENS' ARM, OR ANY REGISTERED VOTER, so that the line reads:

POLITICAL PARTY, OR A BONA FIDE CANDIDATE, ANY COMELEC ACCREDITED CITIZENS' ARM, OR ANY REGISTERED VOTER.

Source: 1987 Constitution, Article 3, Sections 1 and 7.

PAGE2
Line 20
Section 4

After the phrase "an election" insert the phrase AND DURING ELECTION DAY so that the sentence reads:

...AN ELECTION AND DURING ELECTION DAY.

Explanation: The ban on publication of surveys should also include election day.

PAGE2
Lines 20-21
Section 4

Delete the sentence "Neither shall exit polls taken on election day or immediately thereafter be allowed," and add the following paragraph:

ONLY EXIT POLLS WHICH COMPLY WITH THE FOLLOWING REQUIREMENTS SHALL BE ALLOWED:

1. ONLY PROFESSIONAL GROUPS SHALL CONDUCT THE SURVEY. COMELEC SHALL ISSUE A LIST OF QUALIFIED SURVEY FORMS BEFORE ELECTION DAY.

2. POLLSTERS SHALL NOT CONDUCT THEIR SURVEY WITHIN 50 METERS FROM THE POLLING PLACE.

3. POLLSTERS SHALL WEAR DISTINCTIVE CLOTHING THAT WOULD SHOW THAT THEY ARE NOT ELECTION OFFICIALS.

4. POLLSTERS SHALL INFORM THE VOTERS THAT THEY MAY REFUSE TO BE INTERVIEWED, AND THAT THE INTERVIEW IS NOT PART OF THE OFFICIAL BALLOTING PROCESS.

Explanation: In *ABS-CBN vs. Comelec*, 28 January 2000, the Supreme Court held:

The holding of exit polls and the dissemination of their results through mass media constitute an essential part of the freedoms of speech and of the press. Hence, the Comelec cannot ban them totally in the guise of promoting clean, honest, orderly and credible elections. Quite the contrary, exit polls properly conducted and publicized can be vital tools

in eliminating the evils of election-fixing and fraud. Narrowly tailored countermeasures may be prescribed by the Comelec so as to minimize or suppress the incidental problems in the conduct of exit polls, without transgressing in any manner the fundamental rights of our people.

The absolute ban imposed by the Comelec cannot therefore, be justified. It does not leave open any alternative channel of communication to gather the type of information obtained through exit polling. On the other hand, there are other valid and reasonable ways and means to achieve the Comelec end of avoiding or minimizing disorder and confusion that may be brought about by exit surveys.

For instance, a specific limited area for conducting exit polls may be designated. Only professional survey groups may be allowed to conduct the same. Pollsters may be kept at a reasonable distance from the voting center. They may be required to explain to voters that the latter may refuse to be interviewed, and that the interview is not part of the official balloting process. The pollsters may further be required to wear distinctive clothing that would show they are not election officials. Additionally, they may be required to undertake an information campaign on the nature of the exercise and the results to be obtained therefrom. These measures, together with a general prohibition of disruptive behavior, could ensure a clean, safe and orderly election.

PAGE3
Line 12

Insert a new section:

SEC. 8. MEDIA TO MAKE CERTAIN INFORMATION AVAILABLE. - (1) A NEWSPAPER, RADIO BROADCASTING STATION, OUTDOOR ADVERTISING COMPANY, TELEVISION BROADCASTING STATION, DIRECT MAIL ADVERTISING COMPANY, PRINTER OR OTHER PERSON OR GROUP OF PERSONS WHICH ACCEPTS, BROADCASTS, DISSEMINATES, PRINTS OR PUBLISHES:

(A) ADVERTISING ON BEHALF OF ANY CANDIDATE OR GROUP OF CANDIDATES;

(B) POLITICAL ADVERTISING FOR ANY PERSON OTHER THAN A CANDIDATE; OR

(C) ADVERTISING FOR THE PASSAGE OR DEFEAT OF A QUESTION OR GROUP OF

QUESTIONS ON THE BALLOT; SHALL MAINTAIN OPEN FOR PUBLIC INSPECTION DURING THE CAMPAIGN AND FOR A PERIOD OF NO LESS THAN ONE YEAR AFTER THE DATE OF THE APPLICABLE ELECTION, DURING NORMAL BUSINESS HOURS, DOCUMENTS AND BOOKS OF ACCOUNT WHICH SHALL SPECIFY: (A) THE NAMES AND ADDRESSES OF PERSONS FROM WHOM IT ACCEPTED POLITICAL ADVERTISING; (B) THE EXACT NATURE AND EXTENT OF THE ADVERTISING SERVICES RENDERED; AND (C) THE CONSIDERATION AND THE MANNER OF PAYING THAT CONSIDERATION FOR SUCH SERVICES.

(2) FOR PURPOSES OF THIS SECTION THE NECESSARY COST INFORMATION IS MADE AVAILABLE IF A COPY OF EACH BILL, RECEIPT OR OTHER EVIDENCE OF PAYMENT MADE OUT FOR ANY SUCH ADVERTISING IS KEPT IN A RECORD OR FILE, SEPARATE FROM THE OTHER BUSINESS RECORDS OF THE ENTERPRISE AND ARRANGED ALPHABETICALLY BY NAME OF THE CANDIDATE OR THE PERSON OR GROUP WHICH REQUESTED THE ADVERTISEMENT, AT THE PRINCIPAL PLACE OF BUSINESS OF THE ENTERPRISE.

(3) EACH OF THE COMPANIES AND ORGANIZATIONS WHICH MUST COMPLY WITH SUBSECTION (1) SHALL, NOT LATER THAN THIRTY DAYS AFTER THE DAY OF THE ELECTION, FILE WITH THE COMMISSION A REPORT UNDER OATH SETTING FORTH THE COST OF ALL SUCH ADVERTISEMENTS ACCEPTED AND BROADCAST, DISSEMINATED OR PUBLISHED, INCLUDING BUT NOT LIMITED TO THE REQUIRED INFORMATION UNDER SUBSECTION 1. FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION SHALL BE CONSIDERED AS AN ELECTION OFFENSE.

Source: B.P. Blg. 881, Sec. 99, election laws of Nevada (294A370) and Washington (RCW 42.17.110) and MDS amendment.

PAGE3
Line 12

Insert a new section:

SEC. 9. REMOVAL OF POLITICAL ADVERTISEMENTS. - EACH CANDIDATE, HIS POLITICAL

PARTY OR HIS REPRESENTATIVE, WHETHER NATIONAL OR LOCAL, MUST REMOVE ALL UNAUTHORIZED POLITICAL ADVERTISEMENTS SPONSORED AND PAID BY OR FOR HIM WITHIN TWO DAYS AFTER NOTICE HAS BEEN SENT TO THEM BY THE LOCAL OFFICE OF THE COMMISSION, THAT THESE POLITICAL ADVERTISEMENTS ARE POSTED IN UNAUTHORIZED AREAS OR THAT ADVERTISEMENTS ARE BEING AIRED ON RADIO OR TELEVISION IN VIOLATION OF THE APPLICABLE LAWS AND REGULATIONS. THIS SECTION DOES NOT APPLY TO POLITICAL CAMPAIGN ADVERTISEMENTS PLACED ON MOTOR VEHICLES OR TO CAMPAIGN MESSAGES DESIGNED TO BE WORN BY PERSONS.

IN ADDITION, THE LOCAL GOVERNMENT UNIT HAVING JURISDICTION OVER THE AREA WHERE UNAUTHORIZED ADVERTISEMENTS ARE POSTED OR AIRED, SHALL HAVE THE AUTHORITY TO REMOVE OR ORDER THE REMOVAL OF SUCH ADVERTISEMENTS ON A DAILY BASIS, AND MAY CHARGE THE CANDIDATE THE ACTUAL COST FOR SUCH REMOVAL. THE LOCAL GOVERNMENT UNIT, IN COORDINATION WITH THE ARMED FORCES OF THE PHILIPPINES AND THE LOCAL COLLEGES AND UNIVERSITIES, SHALL MOBILIZE ROTC UNITS TO ASSIST THE LOCAL GOVERNMENT IN REMOVING SUCH UNAUTHORIZED ADVERTISEMENTS DURING THE ELECTION PERIOD.

THIS SECTION DOES NOT PRECLUDE MUNICIPALITIES FROM IMPOSING ADDITIONAL OR MORE STRINGENT REQUIREMENTS ON THE REMOVAL OF POLITICAL ADVERTISEMENTS.

Source: Election law of Florida (F.S. 106.1435) and MDS amendments. We provided for the coordination between the LGU and AFP because it is the AFP that has jurisdiction over the citizen's armed forces, including students undergoing ROTC, as provided for in R.A. No. 7077 (1991).

PAGE 3
Lines 19 to 20
Section 9

Delete the phrase "Sections 67 and 85 of the Omnibus Election Code (B.P. Blg. 881) and"

Source: Comments of Commissioner Maambong, 15 September 2000.

Explanation:

1. Section 67

As regards Section 67 (Candidates holding elective office) of the Omnibus Election Code which provides that:

Any elective official, whether national or local, running for any office other than the one which he is holding in a permanent capacity, except for President and Vice-President, shall be considered *ipso facto* resigned from his office upon the filing of his certificate of candidacy.

I believe this should be deliberated and acted upon in a separate bill (there are in fact so many bills to repeal the exceptions provided in the provision, now pending in the House of Representatives). The repeal of Section 67 seems out of place in S. B. No. 1742.

2. Section 85

The proposed repeal of Section 85 (prohibited forms of election propaganda) of the Omnibus Election Code is totally misguided.

Subject to further discussion, I must indicate that letters (a) and (e) of Section 85 were repealed by R.A. No. 6646, Section 11(b) but the other provisions in that section from letters (b) to (d), including the last sentence remained intact, and from my point of view, those provisions are perfectly good law. The minute those provisions are repealed by S. B. No. 1742, we will have no more provisions on prohibited forms of election propaganda.

The repeal of these provisions will cure a defect which does not exist.

But why did Section 11(b) of R.A. No. 6646 impliedly repeal Section 85(a) of the Omnibus Election Code? The answer is obvious. Prior to the passage of R.A. No. 6646, Section 11(b), the SALE of print space by print media (newspapers) was lawful but regulated under the Omnibus Election Code. For a fee, newspapers could publish posters, pamphlets, circulars, handbills, bumper stickers, or simple list of candidates or any published or printed political matter provided they bear the names and addresses of the printer and payor as required in Section 85(a), in relation

to Section 84, OEC (Requirements for published or printed election propaganda).

In other words, under the previous law, all candidates were allowed to purchase or buy print space.

And why did R. A. No. 6646, Section 11 (b) impliedly repeal Section 85 (e) of the Omnibus Election Code? Again, the answer is obvious. To repeat, prior to the passage of R.A. No. 6646, Section 11, the Omnibus Election Code allowed the SALE or the giving of FREE OF CHARGE air time by any radio broadcasting or television station for campaign and other political purposes as long as (1) it is authorized by the OEC under the rules and regulations promulgated by the Commission pursuant thereto, and (2) in compliance with the rules and regulations promulgated by the Commission under and by authority of Section 86 of the Omnibus Election Code which provides the criteria for the Comelec Rules and Regulations (See Sec. 85(e)).

In other words, under the previous law, all candidates were allowed to purchase or buy air time from any radio broadcasting or television station.

On the contrary, therefore, once the repeal of Section 11 (b) is effected by S. B. No. 1742, the repealed Section 85(a) and (e) must be effectively resorted, with slight amendments, to be consistent with the spirit of the repeal of R.A. No. 6646, Section 11(b). The unaffected provisions of Section 85 must remain intact.

And so, I see neither rhyme nor reason S. B. No. 1742 proposes the repeal of Section 85 of the Omnibus Election Code when, in fact, letters (a) and (e) thereof, with slight amendments, are necessary to implement the repeal of R.A. No. 6646, Section 11(b).

Page 3
Line 21
Section 9

After the word "repealed;" insert the phrase:

PROVIDED, THIS ACT SHALL NOT REPEAL ELECTION CODE, SECTION 91; PROVIDED FURTHER, THAT THE ELECTION CODE, FORMER SECTION 82 ON LAWFUL ELECTION PROPAGANDA SHALL TAKE EFFECT ON

DATE OF EFFECTIVITY OF THIS ACT; PROVIDED FINALLY THAT ANY MASS MEDIA COLUMNIST, COMMENTATOR, ANNOUNCER, REPORTER, CORRESPONDENT OR MEDIA PERSONALITY, WHO IS A CANDIDATE FOR ANY ELECTIVE PUBLIC OFFICE SHALL TAKE A LEAVE OF ABSENCE FROM HIS WORK AS SUCH DURING THE CAMPAIGN AND ELECTION PERIOD.

Source: Comments of Commissioner Maambong, 20 May 2000.

This amendment will clearly provide that the repeal of R.A. No. 6646, Section 10 (Common poster areas) will not repeal the provision of Election Code, Section 91 (Common poster areas). The repeal of R.A. No. 6646, Sections 10 and 11, will eliminate the confusion about "billboards." The effect of this repeal will reactivate the provisions of the Election Code, Section 82 (lawful election propaganda) as regards the size, use, and removal of posters and streamers. Under R.A. No. 6646, posters shall not exceed 2 by 3 feet in area; streamers, not exceeding 3 by 8 feet, which may be displayed five days before the date of the meeting or rally, and shall be removed within 24 hours after said meeting or rally. The size of posters and streamers are the same in the Election Code, Section 82. The only difference is on the time of display and removal of streamers. Under Section 82, display is one week before the date of the meeting or rally (not five days), and removal is within 72 hours after the said meeting or rally (not within 24 hours).

Senator Tatad. Mr. President, that being the case, I move that we suspend consideration of ...

Senator Roco. Before we do that, Mr. President, may we ask also the Secretariat to inform our colleagues that if they have any other individual amendments, they can just pass a short submission to the committee so that we can anticipate the response or we can combine it with the others. This will facilitate our discussions because now we are really getting into treacherous shoals because they are so philosophical. It is difficult to just answer with "yes" or "no." So, if we can ask that, Mr. President.

The President. So, the suggestion is, if feasible, those with individual amendments can submit a written proposal to the committee for its consideration. Of course, that does not prevent our colleagues from submitting these amendments on the floor verbally, if that is the case.

Senator Roco. Of course, Mr. President, for preparation purposes of the committee, it is good that they submit their amendments especially if they are very lengthy.

SUSPENSION OF CONSIDERATION OF S. NO. 1742

Senator Tatad. Mr. President, with that understanding, I now move that we suspend consideration of Senate Bill No. 1742.

The President. Is there any objection? *[Silence]* There being none, consideration of Senate Bill No. 1742 is suspended.

Senator Tatad. Mr. President, I do not believe it does any

harm to put on record that today is the 90th birthday of a very distinguished former member of this Chamber, Sen. Arturo M. Tolentino. I believe all the senators have been invited to his birthday party tonight.

ADJOURNMENT OF THE SESSION

With that, I move that we adjourn the session until three o'clock tomorrow afternoon.

The President. Is there any objection? *[Silence]* There being none, the session is adjourned until three o'clock tomorrow afternoon, September 20, 2000.

It was 6:45 p.m.