

**APPENDICES**

**SUFFRAGE: A RIGHT FOR EVERYONE  
BY COMMISSIONER GREGORIO J. TINGSON**

Madam President:

I would like to take this opportunity to explain why the right to vote in the election of officials of government and in the determination of all questions submitted to the people should be extended to the country's disabled and the illiterate, and how we can ensure the sanctity of their votes.

I believe in the theory that suffrage should be regarded as a natural and inherent right of every citizen, a right which belongs to him by virtue of his membership in the State.

In the 1935 Constitution, a vital development has been achieved by our people when both men and women were allowed to vote. That momentous year when all our qualified women trooped to the polling place to assert their exercise of suffrage equal to that of men was an achievement long ahead of women's liberation movement of the present.

We have advanced further than our 1973 Constitution, specifying that except as to citizenship, age and residence, no other disqualifications should be made. In fact, it further states that no literacy, property or other substantive requirement may be imposed.

For the disabled and the illiterate to vote is to give them the active chance to help shape the destiny of our nation. It is often said that the rich and the poor may have a gap as the heaven and earth, but in the exercise of their right of suffrage, they are equal, as they can only vote once.

Personally, I feel that the disabled and the illiterate should not be deprived of this right, as their hapless condition is such that they get the feeling of being less fortunate than others. To take away this one and precious right would further lower their stature in society.

But simply because they have physical deficiency or a low level of literacy, being unable to read nor write, we who are more fortunate should not deny them the only chance perhaps whereby they would feel as our coequals.

Many great thoughts and deeds have originated from people who have physical defects or are unlearned. Perhaps it is part of God's grand design for humanity. We should not hinder their right to live in this world as joyfully and as freely as the rest.

Receptive as we are, this body should consider further that in the exercise of this right, two entities, the disabled and the illiterates, have difficulty casting their votes, especially so where their votes do not have the complete secrecy and sanctity as compared to the other members of society casting the votes by themselves.

Under P.D. No. 1296, issued by our deposed President Marcos, a registered voter who is illiterate or physically unable to prepare the ballot by himself may choose a person of his confidence to assist him in the preparation of his ballot, preferably a relative by affinity or consanguinity within the fourth civil degree. The person thus chosen shall prepare the ballot for the illiterate or disabled voter inside the voting booth. The person assisting shall bind himself in a formal document to fill out the ballot strictly in accordance with the instructions of the voter and not to reveal the contents of the ballot prepared by him.

While it is true that the procedure is good in theory, in practice it is not so. Just consider this: One who is allowed to accompany the disabled or the illiterate is chosen by the voter himself from among his relatives, but there is always no way of telling whether the person is really his relative especially so in the urban areas where residents do not normally know each other. So, the result is that political parties may bring the illiterate or disabled resident to a voting center and claim that the one accompanying the disabled or illiterate voter is his or her relative. In other words, this procedure will always be subject to abuse, deceit or other fraudulent means. So, instead of really achieving the purpose of giving them the opportunity to exercise their political right, they become instruments to perpetrate fraud in the elections.

It is my proposal, therefore, that in the case of the disabled or illiterate who cannot write, they should be assisted only by a schoolteacher of the area, who is not necessarily a member of the election committee. In this manner the voter can cast his vote in confidence, and the sanctity of his ballot will be preserved.

Thank you for this opportunity.

SCHEMES ON THE TERM OF OFFICE (Numbers Correspond to No. of Years)								
Scheme No.	Pres/ VP	Officials			Local	Frequency of Elections	Preference (Pls. )	Results/ Total 43
		Senators	Reps					
I	6	6	4	4	Once every 2 years		20	
II	6	6	3	3	3		12	
III	6	6	6	3	3		1	
IV	6	6	3	6	3			
V	6	6	6	6	6 a/		1	
VI	5	5	5	5	5 b/		1	
VII	4	4	4	4	4 c/		5	
VIII	4	4	4	4	4 d/		2	

#### Remarks re Scheme No. I

1. No reelection for the President  
No limit for all others
2. No immediate reelection for President  
Senators - with reelection  
Congressmen - with reelection  
Local officials - with one reelection

3. Local officials - no immediate reelection
4. No limit to reelection
5. No reelection for all

#### Remarks re Scheme No. II

1. No reelection for President
2. No immediate reelection  
Local officials - limited to 2 reelections  
Senators - limited to one reelection  
Representatives - allowed 3 reelections
3. No reelection for President, immediate or otherwise  
Senators - no reelection, immediate or otherwise  
Representatives/Local officials - one reelection
4. Unlimited reelection for Senators, Representatives, and  
Local officials

#### Remarks re Scheme No. VII

National/Local officials elected the same year but not the same date to avoid confusion of issues

#### Remarks re Scheme No. VIII

One reelection only

### **WHY THE SANDIGANBAYAN AND THE TANODBAYAN SHOULD NOT BE ABOLISHED BY COMMISSIONER GREGORIO J. TINGSON**

I have taken my piece for this issue on the Sandiganbayan and the Tanodbayan on the statements made by distinguished resource persons invited by the Committee on Accountability of Public Officers.

Last June 18, the resource person invited was Justice Raul Gonzalez, Presiding Justice of the Tanodbayan.

As a backgrounder, Justice Gonzalez stated that the Tanodbayan is a constitutionally mandated office that is created by P.D. No. 1487 (further revised by P.D. No. 1607). It has broad powers to include investigative, recommendatory and prosecutorial functions.

To make it more responsive, Justice Gonzalez submitted the following recommendations:

1. That it be constituted as a constitutional office to insure its independence;
2. That its thrust be first preventive instead of prosecutorial;
3. That its proceedings be made public.

Justice Gonzalez stressed that the Tanodbayan's jurisdiction should include offenses penalized under the Anti-Graft Act (RA 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act) and Revised Penal Code under the title, Crimes Committed by Public Officers (Chapter II, Title VII of the Revised Penal Code). This is due, he said, to the difficulty of delineating the specific offenses falling on either

law. He, however, made it clear that he will indorse administrative cases to the Civil Service Commission.

When Commissioner Nollobo cautioned Justice Gonzalez to the effect that the Tanodbayan should dispense with its prosecutorial power, citing the report prepared by 1971 Concon Delegate Robles to the Committee on Constitutional Bodies, Commissioner Nollobo contended that it should act as mobilizer, watchdog and special critic. Justice Gonzalez, at this juncture, countered with the view that it should retain its prosecutorial function only as a last recourse. He believed that the Tanodbayan should first exhaust the other legal remedies before starting to prosecute.

Justice' Gonzalez came out with two grounds why the Sandiganbayan and the Tanodbayan should not be abolished:

1. Tanodbayan retains control of the cases if they are not distributed to the different fiscals;
2. Ordinary courts will be overburdened with the great number of cases filed before the Sandiganbayan when transferred to them.

Justice Gonzalez stressed that the creation of an independent commission on accountability is not necessary since as it is, the Tanodbayan is not a one-man body. He revealed that it has 4 deputies to be distributed in Luzon, Visayas and Mindanao and the nonimplementation of its regionalization is due to lack of funds.

On June 20, Justice Manuel Pamaran, former Presiding Justice of the Sandiganbayan, present Presiding Justice of the Sandiganbayan Francis Garchitorena and Sandiganbayan Justice Romeo Escareal were invited resource persons.

According to Justice Pamaran, the Sandiganbayan was created (by P.D. No. 1486, as revised by P.D. No.1606) to speed up the disposition of the cases against erring public officials. To strengthen the court, he advocated its direct creation in the Constitution by expressly providing its composition, jurisdiction and removal of the justices by impeachment. Additionally, he recommended that no pardon shall be granted to convicted public officials unless recommended by the Sandiganbayan.

While it is expensive for litigants in the provinces to be tried in the Sandiganbayan, he stressed that there is also the advantage that the witnesses before it are more free to testify. Besides, he said, the court is given the option in the decree to try cases either in Manila or in the province.

Commissioner Nollobo presented the consensus of several (may not be the majority) Commissioners to abolish the Sandiganbayan (even the UP Draft does not contain a provision on the subject matter) on the following grounds:

1. Regional Trial Courts and Metropolitan Trial Courts have concurrent jurisdiction over graft cases;
2. There is denial of due process by way of discrimination to those accused of nongraft cases due to the better protection afforded them by the Sandiganbayan;

3. The expediting of the trial of graft cases can be done by law passed giving priority to graft cases or designating a division of the Intermediate Appellate Court to handle exclusively those cases.

Justice Pamaran rebutted the said argument by stating that:

1. The Sandiganbayan can still assume jurisdiction of cases tried by ordinary courts because of the proviso in the law saying "without prejudice of being tried anew by Sandiganbayan for offenses already on trial or tried by other courts;
2. There is no protection to grafters since appeal of the decision to the Supreme Court is done only by certiorari on a question of law unlike in the ordinary courts whereby there is the ordinary appeal. There, questions of facts and of law can be raised. The only time question of facts is reviewed in *certiorari* is when it is raised that the decision of the Sandiganbayan is not supported by facts.

When it was Justice Escareal's turn to speak, he cited that the decree creating the Sandiganbayan amply projects the right of the accused because he is tried by a collegiate body requiring unanimous decision for conviction and that the Supreme Court decides *en banc* for cases brought to it; thus, lessening the possibility of erroneous decision.

According to Justice Garchitorena, the present thrust of the Sandiganbayan is to prosecute the "big fish" in the government service. To meet such objective, he recommended that the Sandiganbayan and the Tanodbayan be reinforced or institutionalized or probably given additional powers.

It was his contention that the abolition of the Sandiganbayan and the Tanodbayan will set back all gains of the government in its continuing efforts to prosecute dishonest officials. Furthermore, he mentioned its own rules. Together with Justice Pamaran, he proposed to the body that it be composed of nine members having the same tenure of office as that of a justice of the Supreme Court.

Personally, I believe that the principle of "public office is a public trust" finds visible meaning in the creation of the Sandiganbayan and the Tanodbayan. To an ordinary man, such entities serve as the "Damocles Sword" over our officials in the public service, who may have the tendency of being corrupt and prone to wrongdoings. To the masses, the Sandiganbayan and the Tanodbayan are the vanguards of an honest and responsible government.

### **STATEMENT RE PROPOSED RESOLUTION NO. 198**

TO : The Honorable Chairman and Members  
Committee on the Executive

SUBJECT : Statement in Relation to Proposed Resolution  
No. 198

The resolution seeks to add a sentence in Section 5, 2nd paragraph of Article VII of the 1973 Constitution, as amended, at the same time retaining the first and second