


FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

8 MAR -4 P 3:47

SENATE
S. No. 2108

RECEIVED BY: 

Introduced by **Senator Richard J. Gordon**

EXPLANATORY NOTE

We live in a society that holds paramount the rights of freedom of speech, of expression and of the press. Article III Section 4 of the Constitution clearly states that: "No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances."

While the Constitution seems to preclude any exceptions to the exercise of the freedoms of speech, expression and of the press, our courts have ruled that these constitutional freedoms are not absolute. Indeed, while our society accords immense value on freedom of expression and speech, our laws also recognize the likewise legitimate need of the individual to protect and defend himself where the exercise of these otherwise constitutional freedoms unduly injure or compromise a person's good name or standing in the community.

Among these valid exceptions are the laws on libel as defined in Act No. 3815, as amended, otherwise known as the Revised Penal Code.

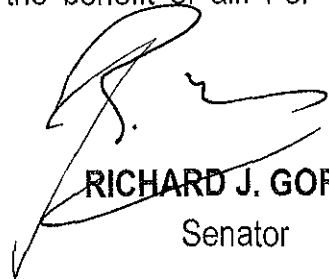
Article 353 of the Code defines libel as a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of the dead. Libel laws are classified as crimes against honor, which seek to protect an individual against unjust attacks against the character and reputation of his person.

Article 354 of the same Code presumes malice, as a general rule, in every defamatory imputation, without regard to its truth or falsity. The person accused of libel is required to prove that the imputation was made with good intentions and justifiable motives. Exceptions to this are private communications and fair comment.

It is the author's belief that the current political climate demands the recognition of legitimate expressions of public opinion as an additional exception under Article 354 of the Code. Discussions of matters of public concern and criticisms of official conduct should be considered privileged, i.e. not presumed to be malicious even though they may be defamatory. In other words, the prosecution must show that the accused acted with malice in order to prove guilt.

This bill aims to strike a balance the two legitimate, albeit clashing, social interests of between freedom of expression and the freedom or right of the individual to protect honor and person, by proposing that the act of political libel be differentiated from private libel. The bill specifically introduces amendments to Article 354 and 361 of the Revised Penal Code, to the end that different penalties may be imposed upon political libel and private libel.

As an eminent US jurist said: "The life of the law is not logic, but experience." In proposing this bill, we are mindful of our collective experience as a people and as a society in crafting laws that will be for the benefit of all. For this purpose, the passage of this bill is earnestly sought.



RICHARD J. GORDON
Senator

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**AN ACT
PRESCRIBING DIFFERENT PENALTIES FOR POLITICAL AND PRIVATE LIBEL,
AMENDING ARTICLE 354 AND 361 OF ACT NO. 3815, AS AMENDED,
OTHERWISE KNOWN AS THE REVISED PENAL CODE, FOR THIS PURPOSE**

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

1 **SECTION 1.** Article 354 of Act No. 3815, as amended, otherwise known as
2 the Revised Penal Code, is hereby amended to read as follows:

3 "Art. 354. Requirement of Publicity AND MALICE. – Every
4 defamatory imputation PUBLICLY MADE is presumed to be malicious
5 even if it be true, if no good intention and justifiable motive for making
6 it be shown, except in the following cases:

7 1. A private communication made by any person to another in
8 the performance of any legal, moral or social duty; [and]

9 2. A fair and true report, made in good faith, without any
10 comments or remarks, of any judicial, legislative or other official
11 proceedings which are not of confidential nature, or of any statement,
12 report or speech delivered in said proceedings, or of any other act
13 performed by public officers in the exercise of their functions; AND

14 3. ANY DISCUSSION OF ANY MATTER OF PUBLIC
15 CONCERN OR CRITICISM OF OFFICIAL CONDUCT OR THE
16 CONDUCT OF PUBLIC FIGURES, UNLESS SUCH MATTER IS
17 SHOWN BY THE PROSECUTION TO BE FALSE OR TO HAVE
18 BEEN MADE BY THE DEFENDANT KNOWING ITS FALSITY OR
19 WITH RECKLESS DISREGARD OF WHETHER IT IS TRUE OR
20 NOT."

1 **Sec. 2.** Article 361 of Act No. 3815, as amended, otherwise known as the
2 Revised Penal Code, is hereby amended to read as follows:

3 “Art. 361. Proof of the Truth. – In every criminal prosecution for
4 libel, the truth OF THE IMPUTATION OF THE ACTS OR OMISSION
5 CONSTITUTING THE CRIME may be given in evidence to the court
6 and if it appears that the matter charged as libelous is true, and,
7 moreover, that it was published with good motives and for justifiable
8 ends, the defendant shall be acquitted.

9 Proof of the truth of an imputation of an act or omission
10 WHETHER OR not constituting a crime [shall not be admitted, unless
11 the imputation shall have been] IF made against government
12 employees with respect to facts related to the discharge of their official
13 duties MAY BE GIVEN BY THE DEFENDANT TO REBUT EVIDENCE
14 THAT THE DEFAMATORY IMPUTATION WAS MADE BY HIM WITH
15 ACTUAL MALICE.

16 [In such cases if the defendant proves the truth of the
17 imputation made by him, he shall be acquitted.]”

18 **Sec. 3. Repealing Clause.** – All laws, decrees, orders, rules and regulations
19 or other issuances or parts thereof inconsistent with the provisions of this Act are
20 hereby repealed or modified accordingly.

21 **Sec. 4. Separability Clause.** – If any portion or provision of this Act is
22 declared unconstitutional, the remainder of this Act or any provision not affected
23 thereby shall remain in force and effect.

24 **Sec. 5. Effectivity.** – This Act shall take effect after fifteen (15) days following
25 the completion of its publication either in the Official Gazette or in a newspaper of
26 general circulation in the Philippines.

27 Approved,