


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

7 JUN 30 P4 50

SENATE

RECEIVED BY: 

S.B. NO. 266

Introduced by Senator Francis N. Pangilinan

EXPLANATORY NOTE

The events involving Major General Carlos Garcia of the Armed Forces of the Philippines appear to uncover graft and corrupt acts in the highest levels of the AFP thus making it imperative for an independent and impartial body to initiate and undertake an investigation on the matter in order to identify the root causes of malpractices in the Armed Forces and recommend criminal prosecution as well as long term solutions and reform measures. The AFP is the fortress of national defense and as such must maintain integrity and stability at all times. Allegations of graft and corruption, especially where higher ranking AFP officials are allegedly involved, should not go unnoticed for these breed political and military disenchantment. To turn a blind eye is to tolerate and encourage further acts of graft and corruption, endangering political stability. Moreover, it is the responsibility of the State to ensure that the annual budget allocated to the military is properly accounted. Thus, the formidable challenge of ridding the government of graft and corruption may as well begin with the cleansing of one of the most powerful government institutions.

The proposed bill seeks to create an independent fact-finding commission that will investigate and delve into the alleged anomalies permeating within the AFP bureaucracy at various levels, committed by uniformed personnel and AFP officers alike. The Commission, to be composed of a retired Justice of the Supreme Court, a retired officer of the Armed Forces with known probity and integrity and representatives of both Houses of Congress, is vested with powers necessary to perform its functions: inquire, without need of court order, into bank accounts or investments which the Commission has reasonable ground to believe contains proceeds of or are in any way related to acts of graft and corruption, issue summons and subpoena, and call upon other government agencies for assistance. Based on its findings, the proposed fact-finding commission is also tasked to recommend measures to prevent the commission and perpetuation of graft and corruption in the AFP.


FRANCIS N. PANGILINAN

FOURTEENTH CONGRESS OF THE REPUBLIC }
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7 JUN 30 1970

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AN ACT
CREATING AN INDEPENDENT COMMISSION TO CONDUCT A THOROUGH FACT-FINDING
INVESTIGATION OF ALLEGATIONS OF GRAFT AND CORRUPTION IN THE ARMED FORCES OF
THE PHILIPPINES

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

1 **SECTION 1. Creation.** - There is hereby created an independent Commission which shall
2 investigate all the facts and circumstances of the alleged graft and corruption in the Armed Forces of the
3 Philippines, and recommend measures to prevent the same.

4 **SEC. 2. Powers and Functions.** - The Commission shall have the following powers and functions:

5 (a) Conduct a thorough fact-finding investigation of the allegations of graft and corruption in the
6 Armed Forces of the Philippines and submit its findings and recommendations to the President, the
7 Congress, and other appropriate authorities not later than three (3) months from the effectivity of this Act;

8 (b) Receive, review and evaluate the evidence adduced and to this end, summon witnesses,
9 administer oaths, take testimony or receive evidence relevant to the investigation, and to issue *subpoena*
10 *ad testificandum* or *subpoena duces tecum* to produce documents, books, records and other papers;

11 (c) Turn over to the appropriate prosecutorial authorities all evidence involving any person
12 when in the course of its investigation, the Commission finds that there is reasonable ground to believe that
13 such person appears to be liable for acts of graft and corruption;

14 (d) Notwithstanding the provisions of Republic Act No. 1405, as amended, Republic Act No.
15 6426, as amended, Republic Act No. 8791, and other laws, the Commission may require into or examine
16 any bank deposit, trust or investment fund, or banking transaction in the name of and/or utilized by a
17 person, natural or juridical, under investigation by the Commission, in any banking or non-bank financial
18 institution and their subsidiaries and affiliates, without need of court order, when the Commission has

1 reasonable ground to believe that such funds contain proceeds of or are in any way related to the alleged
2 acts of graft and corruption; and

3 (e) Exercise such other acts incident to or are appropriate and necessary in connection with the
4 objectives of this Act.

5 **SEC. 3. Bar Against Court Injunction; Exception, Supreme Court.** - No court, except the Supreme
6 Court, shall issue any restraining order or preliminary injunction on any matter involving the official acts of
7 the Commission pursuant to this Act and of the Monetary board under paragraph (d) of Section 2 hereof.

8 **SEC. 4. Composition, Qualification, and Salary.** - The Commission shall be composed of five (5)
9 members, of whom:

10 (a) **Members.** - The Commission shall be composed of seven (7) members:

11 (1) a Chairman, who shall be a retired Justice of the Supreme Court and shall be appointed
12 by the President;

13 (2) two (2) members, who shall be designated by the Senate President, one of whom shall
14 be a member of the majority party and one of whom shall be a member of the minority
15 party; and

16 (3) two (2) members, who shall be designated by the Speaker of the House, one of whom
17 shall be a member of the majority party and one whom shall be a member of the
18 minority party.

19 (b) **Qualifications.** - The Chairman and members shall be citizens of the Philippines, at least forty
20 (40) years of age, and have an established reputation for integrity, honesty, probity and
21 professional competence.

22 (c) **Salary.** - The Chairman and members shall be entitled to receive reasonable compensation.

23 **SEC. 5. Tenure and Turn Over of Records.** - The Commission is hereby given six (6) months
24 from the effectivity of this Act to attain the objectives set forth herein. The Commission shall be *functus*
25 *officio* upon the lapse of such period and upon submission of its report, and shall turn over all its records,
26 assets and properties to the Department of Justice.

27 **SEC. 6. Orderly Conduct of Proceedings.** - The Commission shall adopt rules and procedures for
28 orderly conduct of its investigation, proceeding and hearing, including the presentation of evidence. The
29 rules of evidence under the Revised Rules of Court shall have suppletory application.

1 **SEC. 7. *Conduct of Hearings.*** - Proceedings and hearings of the Commission, sitting *en banc*,
2 shall be open to the public. The Commission may, *motu proprio* or upon request of the person testifying,
3 hold an executive or closed-door hearing where matters of national security or public safety are involved or
4 the personal safety of the witness warrants the holding of such executive or closed-door hearing. The
5 Commission shall prescribe the rules to govern such executive or closed-door hearings.

6 Any person called to testify before the Commission shall have the right to counsel at any stage of
7 the proceedings.

8 **SEC. 8. *Right Against Self-Incrimination; Protection of Witness.*** - No person shall be excused
9 from attending and testifying or from producing documents, books, records, correspondence, or other
10 evidence in obedience to a subpoena issued by the Commission on the ground that his testimony or other
11 evidence required of him may tend to incriminate him or subject him to penalty or forfeiture. After having
12 invoked his right against self-incrimination, his testimony or any evidence produced by him shall not be
13 used against him in any proceedings, except for perjury committed in so testifying.

14 The Commission shall protect any person called to testify by providing the necessary and
15 reasonable security arrangements with the assistance and cooperation of the Armed Forces of the
16 Philippines and other appropriate government agencies.

17 **SEC. 9. *Direct and Indirect Contempt.*** - The Commission may file a petition to cite in direct or
18 indirect contempt any person guilty of misbehavior in the presence of or so near the Commission as to
19 obstruct or interrupt the proceedings before the same, including disrespect towards its officials, offensive
20 personalities towards other, or refusal to be sworn or to answer as a witness, or to subscribe to an affidavit
21 or deposition, or produce documents, when lawfully required to do so.

22 **SEC. 10. *Personnel of the Commission.*** - The Chairman shall have the power to engage the
23 services of such persons or personnel including a Commission Counsel, Deputy Commission Counsel(s) or
24 such other officials as may be required for the effective performance of its functions and responsibilities, to
25 fix their duties and compensation, to organize the structure and staffing pattern of the Commission; and to
26 authorize the payment of honoraria and/or allowance for deputized officers and officials subject to the
27 pertinent accounting and auditing rules and procedures. The persons appointed, designated, deputized or
28 contracted by the Commission shall be subject to the Civil Service Law, rules and regulations.

1 **SEC. 11. *Promulgation of Rules and Regulations; Publication of Rules and Reports.*** - The
2 Commission shall have the power to promulgate its rules and regulations, enter into contracts, and perform
3 any and all other acts necessary or incidental to the attainment of the objectives of this Act.

4 Commission rules and regulations shall be published in at least two (2) national newspapers of
5 general circulation and shall take effect two (2) days after its publication. The final report submitted to the
6 President and to Congress shall be published.

7 **SEC. 12. *Role of Other Government Agencies.*** - The Commission may call upon any
8 government investigative and prosecutorial agency, including the National Bureau of Investigation and the
9 Philippine National Police, to make available their offices, personnel and facilities to attain the objectives of
10 this Act.

11 **SEC. 13. *Appropriations.*** - The sum of Three million pesos (₱ 3,000,000.00) is hereby provided
12 to the Commission, chargeable against the Contingent Fund. The said amount shall automatically be
13 released to the Commission for disbursement in accordance with the auditing rules and regulations.

14 **SEC. 14. *Repealing Clause.*** - All laws, decrees, executive orders, rules and regulations or parts
15 thereof, including the relevant provisions of Republic Act No. 1405, as amended, Republic Act No. 6426, as
16 amended, Republic Act No. 8791, and other similar laws, as are inconsistent with this Act are hereby
17 repealed, amended, or modified accordingly.

18 **SEC. 15. *Separability Clause.*** - If any provision of this Act is declared unconstitutional, the same
19 shall not affect the validity and effectivity of the other provisions hereof.

20 **SEC. 16. *Effectivity.*** - This Act shall take effect two (2) days following its publication in at least
21 two (2) national newspapers of general circulation.

Approved.