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[G.R. No. 119694. May 22, 1995.]

PHILIPPINE PRESS INSTITUTE, INC., for and in behalf of 139 members, represented by its President Amado P. Macasaet and its Executive Director Ermin F. Garcia, Jr., *petitioner, vs.* COMMISSION ON ELECTIONS, *respondent.*

SYLLABUS

1. **CONSTITUTIONAL LAW; BILL OF RIGHTS; PROHIBITION AGAINST TAKING OF PRIVATE PROPERTY FOR PUBLIC USE WITHOUT JUST COMPENSATION; COMPELLING PUBLISHERS TO "DONATE" COMELEC SPACE, A VIOLATION OF.** -- To *compel* print media companies *to donate* "Comelec space" of the dimensions specified in Section 2 of Resolution No. 2722 (not less than one-half page), amounts to "taking" of private personal property for public use or purposes. Section 2 failed to specify the intended *frequency* of such compulsory "donation": only *once* during the period from 6 March 1995 (or 21 March 1995) until 12 May 1995? or everyday or once a week? or as often as Comelec may direct during the same period? The extent of the taking or deprivation is not insubstantial; this is not a case of a *de minimis* temporary limitation or restraint upon the use of private property. The monetary value of the compulsory "donation," measured by the advertising rates ordinarily charged by newspaper publishers whether in cities or in non-urban areas, may be very substantial indeed. The taking of private property for public use is, of course, authorized by the Constitution, but not without payment of "just compensation" (Article III, Section 9). And apparently the necessity of paying compensation for "Comelec space" is

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precisely what is sought to be avoided by respondent Commission, whether Section 2 of Resolution No. 2772 is read as petitioner PPI reads it, as an assertion of authority to require newspaper publishers to "donate" free print space for Comelec purposes, or as an exhortation, or perhaps an appeal, to publishers to donate free print space, as Section 1 of Resolution No. 2772-A attempts to suggest. The threshold requisites for a lawful taking of private property for public use need to be examined here: one is the *necessity for the taking;* another is the *legal authority to effect the taking.* The element of necessity for the taking has not been shown by respondent Comelec. It has not been suggested that the members of PPI are unwilling *to sell* print space at their normal rates to Comelec for election purposes. Indeed, the unwillingness or reluctance of Comelec *to buy* print space lies at the heart of the problem. Similarly, it has not been suggested, let alone demonstrated, that Comelec has been granted the power of eminent domain either by the Constitution or by the legislative authority. A reasonable relationship between that power and the enforcement and administration of election laws by Comelec must be shown; it is not casually to be assumed. x x x Section 2 does not constitute a valid exercise of the power of eminent domain.

2. **ID.; ID.; ID.; ID.; PUBLIC FUNDS, NOT PUBLISHERS SOLELY, SHOULD BEAR COSTS FOR PUBLIC INFORMATION OF ELECTORAL PROCESSES.** -- The ruling here laid down by the Court is entirely in line with the theory of democratic representative government. The economic costs of informing the general public about the qualifications and programs of those seeking elective office are most appropriately distributed as widely as possible throughout our society by the utilization of public funds, especially funds raised by taxation, rather than cast solely on one small sector of society, i.e., print media

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enterprises. The benefits which flow from a heightened level of information on and the awareness of the electoral process are commonly thought to be community-wide; the burdens should be allocated on the same basis.

3. ID.; POLICE POWER; REQUISITES FOR A VALID EXERCISE THEREOF; NOT COMPLIED WITH IN CASE AT BAR. — As earlier noted, the Solicitor General also contended that Section 2 of Resolution No. 2772, even if read as compelling publishers to "donate" "Comelec space," may be sustained as a valid exercise of the police power of the state. This argument was, however, made too casually to require prolonged consideration on our part. Firstly, there was no effort (and apparently no inclination on the part of Comelec) to show that the police power — essentially a power of legislation — has been constitutionally delegated to respondent Commission. Secondly, while private property may indeed be validly taken in the legitimate exercise of the police power of the state, there was no attempt to show compliance in the instant case with the requisites of a lawful taking under the police power. Section 2 of Resolution No. 2772 is a blunt and heavy instrument that purports, without a showing of existence of a national emergency or other imperious public necessity, indiscriminately and without regard to the individual business condition of particular newspapers or magazines located in differing parts of the country, to take private property of newspaper or magazine publishers. No attempt was made to demonstrate that a real and palpable or urgent necessity for the taking of print space confronted the Comelec and that Section 2 of Resolution No. 2772 was itself the only reasonable and calibrated response to such necessity available to the Comelec. Section 2 does not constitute a valid exercise of the police power of the State.

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4. **ID.; SUPREME COURT; POWER OF JUDICIAL REVIEW; CONSTITUTIONALITY OF SEC. 8 COMELEC RESOLUTION NO. 2772, WITHOUT ACTUAL CONTROVERSY, IS NOT RIPE FOR JUDICIAL REVIEW; CASE AT BAR.** — Section 8 of Resolution No. 2772 should be viewed in the context of our decision in *National Press Club v. Commission on Elections.* There the Court sustained the constitutionality of Section 11 (b) of R.A. No. 6646, known as the Electoral Reforms Law of 1987, which prohibits the sale or donation of print space and airtime for campaign or other political purposes, except to the Comelec. In doing so, the Court carefully distinguished (a) *paid political advertisements* which are reached by the prohibition of Section 11 (b), from (b) the reporting of *news, commentaries and expressions of belief or opinion* by reporters, broadcasters, editors, commentators or columnists which *fall outside* the scope of Section 11 (b) and which are protected by the constitutional guarantees of freedom of speech and of the press. x x x Section 8 of Resolution No. 2772 appears to represent the effort of the Comelec to establish a guideline for implementation of the above-quoted distinction and doctrine in *National Press Club*, an effort not blessed with evident success. Section 2 of Resolution No. 2772-A while possibly helpful, does not add substantially to the utility of Section 8 of Resolution No. 2772. The distinction between paid political advertisements on the one hand and news reports, commentaries and expressions of belief or opinion by reporters, broadcasters, editors, etc. on the other hand, can realistically be given operative meaning only in actual cases or controversies, on a case-to-case basis, in terms of very specific sets of facts. At all events, the Court is bound to note that PPI has failed to allege any specific affirmative action on the part of Comelec designed to enforce or implement Section 8. PPI has not claimed that it or any of its members has sustained actual or

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imminent injury by reason of Comelec action under Section 8. Put a little differently, the Court considers that the precise constitutional issue here sought to be raised — whether or not Section 8 of Resolution No. 2772 constitutes a permissible exercise of the Comelec's power under Article IX, Section 4 of the Constitution x x x is not ripe for judicial review for lack of an actual case or controversy involving, as the very *lis mota* thereof, the constitutionality of Section 8.

APPEARANCES OF COUNSEL

Teodoro B. Cruz, Jr. for petitioner.
The Solicitor General for respondent.

R E S O L U T I O N

FELICIANO, *J.*:

The Philippine Press Institute, Inc. ("PPI") is before this Court assailing the constitutional validity of Resolution No. 2772 issued by respondent Commission on Elections ("Comelec") and its corresponding Comelec directive dated 22 March 1995, through a Petition for Certiorari and Prohibition. Petitioner PPI is a non-stock, non-profit organization of newspaper and magazine publishers.

On 2 March 1995, Comelec promulgated Resolution No. 2772, which reads in part:

"x x x x x x x x x

Sec. 2. *Comelec Space.* - The Commission *shall procure free* print space of *not less than one half (1/2) page in at least one newspaper of general circulation in every province or city for use as 'Comelec Space'* from March 6, 1995 in the case of candidates for senators and from March 21, 1995 until

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May 12, 1995. In the absence of said newspaper, 'Comelec Space' shall be obtained from any magazine or periodical of said province or city.

Sec. 3. *Uses of Comelec Space. - 'Comelec Space' shall be allocated* by the Commission, *free of charge, among all candidates* within the area in which the newspaper, magazine or periodical is circulated to enable the candidates to make known their qualifications, their stand on public issues and their platforms and programs of government.

'Comelec Space' shall also be used by the Commission for dissemination of vital election information.

Sec. 4. *Allocation of Comelec Space.* - (a) 'Comelec Space' shall be *available to all* candidates during the periods stated in Section 2 hereof. Its *allocation shall be equal and impartial among all candidates for the same office.* All candidates concerned shall be furnished a copy of the allocation of 'Comelec Space' for their information, guidance and compliance.

(b) Any candidate desiring to avail himself of 'Comelec Space' from newspapers or publications based in the Metropolitan Manila Area shall submit an application therefor, in writing, to the Committee on Mass Media of the Commission. Any candidate desiring to avail himself of 'Comelec Space' in newspapers or publications based in the provinces shall submit his application therefor, in writing, to the Provincial Election Supervisor concerned. Applications for availment of 'Comelec Space' may be filed at any time from the date of effectivity of this Resolution.

(c) The Committee on Mass Media and the Provincial Election Supervisors *shall allocate available 'Comelec Space' among the candidates* concerned *by lottery* of which said candidates shall be notified in advance, in writing, to be present personally or by representative to witness the lottery at the date, time

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and place specified in the notice. Any party objecting to the result of the lottery may appeal to the Commission.

(d) The candidates concerned shall be notified by the Committee on Mass Media or the Provincial Election Supervisor, as the case may be, sufficiently in advance and in writing of the date of issue and the newspaper or publication allocated to him, and the time within which he must submit the written material for publication in the 'Comelec Space.'

x x x x x x x x x

Sec. 8. *Undue Reference to Candidates/Political Parties in Newspapers.* - No newspaper or publication shall allow to be printed or published in the news, opinion, features, or other sections of the newspaper or publication accounts or comments which manifestly favor or oppose any candidate or political party by unduly or repeatedly referring to or including therein said candidate or political party. However, unless the facts and circumstances clearly indicate otherwise, the Commission will respect the determination by the publisher and/or editors of the newspapers or publications that the accounts or views published are significant, newsworthy and of public interest." (Italics supplied)

Apparently in implementation of this Resolution, Comelec through Commissioner Regalado E. Maambong sent identical letters, dated 22 March 1995, to various publishers of newspapers like the *Business World*, the *Philippine Star*, the *Malaya* and the *Philippine Times Journal*, all members of PPI. These letters read as follows:

"This is to advise you that pursuant to Resolution No. 2772 of the Commission on Elections, you are *directed to provide free print space* of not less than one half (½) page *for use as 'Comelec Space'* or similar to the print support which you have extended during

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the May 11, 1992 synchronized elections which was 2 full pages for each political party fielding senatorial candidates, from March 6, 1995 to May 6, 1995, to make known to their qualifications, their stand on public issues and their platforms and programs of government.

We shall be informing the *political parties and candidates to submit directly to you* their *pictures*, biographical *data, stand on key public issues* and *platforms of government,* either *as raw data or* in the form of *positives or camera-ready materials.*

Please be reminded that the political parties/ candidates may be accommodated in your publications any day upon receipt of their materials until May 6, 1995 which is the last day for campaigning.

We trust you to extend your full support and cooperation in this regard." (Italics supplied)

In this Petition for Certiorari and Prohibition with prayer for the issuance of a Temporary Restraining Order, PPI asks us to declare Comelec Resolution No. 2772 unconstitutional and void on the ground that it violates the prohibition imposed by the Constitution upon the government, and any of its agencies, against the taking of private property for public use without just compensation. Petitioner also contends that the 22 March 1995 letter directives of Comelec requiring publishers to give free "Comelec Space" and at the same time process raw data to make it camera-ready, constitute impositions of involuntary servitude, contrary to the provisions of Section 18 (2), Article III of the 1987 Constitution. Finally, PPI argues that Section 8 of Comelec Resolution No. 2772 is violative of the constitutionally guaranteed freedom of speech, of the press and of expression.[1]

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[1] Petition, pp. 6-11; *Rollo*, pp. 7-12.

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On 20 April 1995, this Court issued a Temporary Restraining Order enjoining Comelec from enforcing and implementing Section 2 of Resolution No. 2772, as well as the Comelec directives addressed to various print media enterprises all dated 22 March 1995. The Court also required the respondent to file a Comment on the Petition.

The Office of the Solicitor General filed its Comment on behalf of respondent Comelec alleging that Comelec Resolution No. 2772 does *not* impose upon the publishers any obligation to provide free print space in the newspapers as it does *not* provide any criminal or administrative sanction for non-compliance with that Resolution. According to the Solicitor General, the questioned Resolution merely established guidelines to be followed in connection with the procurement of "Comelec space," the procedure for and mode of allocation of such space to candidates and the conditions or requirements for the candidate's utilization of the "Comelec space" procured. At the same time, however, the Solicitor General argues that *even if* the questioned Resolution and its implementing letter directives are viewed as *mandatory*, the same would nevertheless be valid as an exercise of the police power of the State. The Solicitor General also maintains that Section 8 of Resolution No. 2772 is a permissible exercise of the power of supervision or regulation of the Comelec over the communication and information operations of print media enterprises during the election period to safeguard and ensure a fair, impartial and credible election.[2]

At the oral hearing of this case held on 28 April 1995, respondent Comelec through its Chairman, Hon. Bernardo Pardo, in response to inquiries from

[2] Comment, pp. 5-15; *Rollo* , pp. 70-80

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the Chief Justice and other Members of the Court, stated that Resolution No. 2772, particularly Section 2 thereof and the 22 March 1995 letters dispatched to various members of petitioner PPI, were *not* intended to compel those members to supply Comelec with free print space. Chairman Pardo represented to the Court that that Resolution and the related letter-directives were merely designed to solicit from the publishers the same free print space which many publishers had voluntarily given to Comelec during the election period relating to the 11 May 1992 elections. Indeed, the Chairman stated that the Comelec would, that very afternoon, meet and adopt an appropriate amending or clarifying resolution, a certified true copy of which would forthwith be filed with the Court.

On 5 May 1995, the Court received from the Office of the Solicitor General a manifestation which attached a copy of Comelec Resolution No. 2772-A dated 4 May 1995. The operative portion of this Resolution follows:

> NOW THEREFORE, pursuant to the powers vested in it by the Constitution, the Omnibus Election Code, Republic Acts No. 6646 and 7166 and other election laws, the Commission on Elections RESOLVED to clarify Sections 2 and 8 of Res. No. 2772 as follows:
>
> 1. Section 2 of Res. No. 2772 shall not be construed to mean as requiring publishers of the different mass media print publications to provide print space under pain of prosecution, whether administrative, civil or criminal, there being no sanction or penalty for violation of said Section provided for either in said Resolution or in Section 90 of Batas Pambansa Blg. 881, otherwise known as the Omnibus Election Code, on the grant of 'Comelec Space.'

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2. Section 8 of Res. No. 2772 shall not be construed to mean as constituting prior restraint on the part of the publishers with respect to the printing or publication of materials in the news, opinion, features or other sections of their respective publications or other accounts or comments, it being clear from the last sentence of said Section 8 that the Commission shall, *'unless the facts and circumstances clearly indicate otherwise x x x respect the determination by the publishers and/or editors of the newspapers or publications that the accounts or views published are significant, newsworthy and of public interest.'*

This Resolution shall take effect upon approval." (Italics in the original)

While, at this point, the Court could perhaps simply dismiss the Petition for Certiorari and Prohibition as having become moot and academic, we consider it not inappropriate to pass upon the first constitutional issue raised in this case. Our hope is to put this issue to rest and prevent its resurrection.

Section 2 of Resolution No. 2772 is not a model of clarity in expression. Section 1 of Resolution No. 2772-A did not try to redraft Section 2; accordingly, Section 2 of Resolution No. 2772 persists in its original form. Thus, we must point out that, as presently worded, and in particular as interpreted and applied by the Comelec itself in its 22 March 1995 letter-directives to newspaper publishers, Section 2 of Resolution No. 2772 is clearly susceptible of the reading that petitioner PPI has given it. That Resolution No. 2772 does not, in express terms, threaten publishers who would disregard it or its implementing letters with some criminal or other

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sanction, does *not* by itself demonstrate that the Comelec's original intention was simply to solicit or request voluntary donations of print space from publishers. A written communication officially directing a print media company to *supply free print space,* dispatched by a government (here a constitutional) agency and signed by a member of the Commission presumably legally authorized to do so, is bound to produce a coercive effect upon the company so addressed. That the agency may not be legally authorized to impose, or cause the imposition of, criminal or other sanctions for disregard of such direction, only aggravates the constitutional difficulties inhering in the present situation. The enactment or addition of such sanctions by the legislative authority itself would be open to serious constitutional objection.

To *compel* print media companies *to donate* "Comelec space" of the dimensions specified in Section 2 of Resolution No. 2772 (not less than one-half page), amounts to "taking" of private personal property for public use or purposes. Section 2 failed to specify the intended *frequency* of such compulsory "donation": only *once* during the period from 6 March 1995 (or 21 March 1995) until 12 May 1995? or everyday or once a week? or as often as Comelec may direct during the same period? The extent of the taking or deprivation is not insubstantial; this is not a case of a *de minimis* temporary limitation or restraint upon the use of private property. The monetary value of the compulsory "donation," measured by the advertising rates ordinarily charged by newspaper publishers whether in cities or in non-urban areas, may be very substantial indeed.

The taking of print space here sought to be effected may first be appraised under the rubric of

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expropriation of private personal property for public use. The threshold requisites for a lawful taking of private property for public use need to be examined here: one is the *necessity for the taking;* another is the *legal authority to effect the taking.* The element of necessity for the taking has not been shown by respondent Comelec. It has not been suggested that the members of PPI are unwilling *to sell* print space at their normal rates to Comelec for election purposes. Indeed, the unwillingness or reluctance of Comelec *to buy* print space lies at the heart of the problem.[3] Similarly, it has not been suggested, let alone demonstrated, that Comelec has been granted the power of imminent domain either by the Constitution or by the legislative authority. A reasonable relationship between that power and the enforcement and administration of election laws by Comelec must be shown; it is not casually to be assumed.

That the taking is designed to subserve "public use" is not contested by petitioner PPI. We note only that, under Section 3 of Resolution No. 2772, the free "Comelec space" sought by the respondent Commission would be used not only for informing

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[3] As I.A. Cruz, *Constitutional Law,* p. 59 (1991 ed.), citing Noble *v.* City of Manila, 67 Phil. 1 (1938), stressed:

"[w]here private property is needed for conversion to some public use, the first thing obviously that the government to do is to offer to buy it. If the owner is willing to sell and the parties can agree on the price and the other conditions of the sale, a voluntary transaction can then be concluded and the transfer effected without the necessity of judicial action.

But *if the owner of the private property is unwilling to part with it, or,* being willing, *cannot agree to the condition of the transfer, then it willi be necessary for the government to use its coercive authority.* By its power of eminent domain, it can then, upon payment of just compensation, forcibly acquire the needed property in order to devote it to the intended public use." (Italics supplied).

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the public about the identities, qualifications and programs of government of candidates for elective office but also for "dissemination of vital election information" (including, presumably, circulars, regulations, notices, directives, etc. issued by Comelec). It seems to the Court a matter of judicial notice that government offices and agencies (including the Supreme Court) simply purchase print space, in the ordinary course of events, when their rules and regulations, circulars, notices and so forth need officially to be brought to the attention of the general public.

The taking of private property for public use is, of course, authorized by the Constitution, but not without payment of "just compensation" (Article III, Section 9). And apparently the necessity of paying compensation for "Comelec space" is precisely what is sought to be avoided by respondent Commission, whether Section 2 of Resolution No. 2772 is read as petitioner PPI reads it, as an assertion of authority to require newspaper publishers to "donate" free print space for Comelec purposes, or as an exhortion, or perhaps an appeal, to publishers to donate free print space, as Section 1 of Resolution No. 2772-A attempts to suggest. There is nothing at all to prevent newspaper and magazine publishers from voluntarily giving free print space to Comelec for the purposes contemplated in Resolution No. 2772. Section 2 of Resolution No. 2772 does not, however, provide a constitutional basis for compelling publishers, against their will, in the kind of factual context here present, to provide free print space for Comelec purposes. Section 2 does not constitute a valid exercise of the power of eminent domain.

We would note that the ruling here laid down by the Court is entirely in line with the theory of

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democratic representative government. The economic costs of informing the general public about the qualifications and programs of those seeking elective office are most appropriately distributed as widely as possible throughout our society by the utilization of public funds, especially funds raised by taxation, rather than cast solely on one small sector of society, i.e., print media enterprises. The benefits which flow from a heightened level of information on and the awareness of the electoral process are commonly thought to be community-wide; the burdens should be allocated on the same basis.

As earlier noted, the Solicitor General also contended that Section 2 of Resolution No. 2772, even if read as compelling publishers to "donate" "Comelec space," may be sustained as a valid exercise of the police power of the state. This argument was, however, made too casually to require prolonged consideration on our part. Firstly, there was no effort (and apparently no inclination on the part of Comelec) to show that the police power — essentially a power of legislation — has been constitutionally delegated to respondent Commission.[4] Secondly, while private property may indeed be validly taken in the legitimate exercise of the police power of the state, there was no attempt to show compliance in the instant case with the requisites of the lawful taking under the police power.[5]

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[4] See, in this connection, Cruz, *supra* note 3 at pp. 44-45. The police power may be delegated by the legislative authority to local governments under the general welfare clause (Section 16, R.A. No. 7160, "Local Government Code of 1991"), to the President and administrative agencies. See also Binay *v.* Domingo, 201 SCRA 508 (1991); Philippine Association of Service Exporters, Inc. *v.* Drilon, 163 SCRA 386 (1988); Villacosta *v.* Bernardo, 143 SCRA 480 (1986).

[5] See National Development Company *v.* Philippine Veterans Bank, 192 SCRA 257 (1990); Association of Small Landowners in the Philippines, Inc. *v.* Secretary of Agrarian Reform, 175 SCRA 343 (1989).

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Section 2 of Resolution No. 2772 is a blunt and heavy instrument that purports, without a showing of existence of a natonal emergency or other imperious public necessity, indicriminately and without regard to the individual business condition of particular newspapers or magazines located in differing parts of the country, to take private property of newspaper or magazine publishers. No attempt was made to demonstrate that a real and palpable or urgent necessity for the taking of print space confronted the Comelec and that Section 2 of Resolution No. 2772 was itself the only reasonable and calibrated response to such necessity available to the Comelec. Section 2 does not constitute a valid exercise of the police power of the State.

We turn to Section 8 of Resolution No. 2772, which needs to be quoted in full again:

> Sec. 8. *Undue Reference to Candidates/Political parties in Newspaper.* - No newspaper or publication shall allow to be printed or published in the news, opinion, features, or other sections of the newspaper or publication accounts or comments which manifest favor or oppose any candidate or political party by unduly or repeatedly referring to or including therein said candidate or political party. However, unless the facts and circumstances clearly indicate otherwise, the Commission will respect the determination by the publisher and/or editors of the newspapers or publications that the accounts or views published are significant, newsworthy and of public interest."

It is not easy to understand why Section 8 was included at all in Resolution No. 2772. In any case, Section 8 should be viewed in the context of our decision in *National Press Club v. Commission on Elections.*[6] There the Court sustained the

[6] 207 SCRA 1 (1992).

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constitutionality of Section 11 (b) of R.A. No. 6646, known as the Electoral Reforms Law of 1987, which prohibits the sale or donation of print space and airtime for campaign or other political purposes, except to the Comelec. In doing so, the Court carefully distinguished (a) *paid political advertisements* which are reached by the prohibition of Section 11 (b), from (b) the reporting of *news, commentaries and expressions of belief or opinion* by reporters, broadcasters, editors, commentators or columnists which *fall outside* the scope of Section 11 (b) and which are protected by the constitutional guarantees of freedom of speech and of the press:

"Secondly, and more importantly, Section 11 (b) is limited in its scope of application. Analysis of *Section 11 (b)* shows that it *purports to apply only to the purchase and sale,* including purchase and sale disguised as a donation, of print space and air time *for campaign or other political purposes. Section 11 (b) does not purport* in any way *to restrict* the *reporting by newspapers* or *radio* or *television* stations *of news or news-worthy events relating to candidates,* their qualifications, political parties and programs of government. Moreover, *Section 11 (b) does not reach commentaries and expressions of belief or opinion by reporters or broadcasters or editors or commentators or columnists in respect of candidates, their qualifications, and programs and so forth,* so long at least as such comments, opinions and beliefs are not in fact advertisements for particular candidates covertly paid for. In sum, Section 11 (b) is not to be read as reaching any report or commentary or other coverage that, in responsible media, is not paid for by candidates for political office. *We read Section 11 (b) as designed to cover only paid political advertisements of particular candidates.*

The above limitation in scope of application of Section 11 (b) -- that it does not restrict either the reporting of or the expression of belief or opinion or

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comment upon the qualifications and programs and activities of any and all candidates for office - constitutes the critical distinction which must be made between the instant case and that of *Sanidad v. Commission on Elections.* x x x"[7] (Citations omitted; Italics supplied)

Section 8 of Resolution No. 2772 appears to represent the effort of the Comelec to establish a guidelines for implementation of the above-quoted distinction and doctrine in *National Press Club*, an effort not blessed with evident success. Section 2 of Resolution No. 2772-A while possibly helpful, does not add substantially to the utility of Section 8 of Resolution No. 2772. The distinction between paid political advertisements on the one hand and news reports, commentaries and expressions of belief or opinion by reporters, broadcasters, editors, etc. on the other hand, can realistically be given operative meaning only in actual cases or controversies, on a case-to-case basis, in terms of very specific sets of facts.

At all events, the Court is bound to note that PPI has failed to allege any specific affirmative action on the part of Comelec designed to enforce or implement Section 8. PPI has not claimed that it or any of its members has sustained actual or imminent injury by reason of Comelec action under Section 8. Put a little differently, the Court considers that the precise constitutional issue here sought to be raised — whether or not Section 8 of Resolution No. 2772 constitutes a permissible exercise of the Comelec's power under Article IX, Section 4 of the Constitution to

"supervise or regulate the enjoyment or utilization of all franchise or permits for the operation of — media

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[7] 207 SCRA at 10-11.

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of communication or information — [for the purpose of ensuring] equal opportunity, time and space, and the right of reply, including reasonable, equal rates therefor, for publicinformation campaigns and forums among candidates in connection with the objective of holding free, orderly, honest, peaceful and credible elections — "

is not ripe for judicial review for lack of an actual case or controversy involving, as the very *lis mota* thereof, the constitutionality of Section 8.

1. Section 2 of Resolution No. 2772, in its present form and as interpreted by Comelec in its 22 March 1995 letter directives, purports to require print media enterprises to "donate" free print space to Comelec. As such, Section 2 suffers from fatal constitutional vice and must be set aside and nullified.

2. To the extent it pertains to Section 8 of Resolution No. 2772, the Petition for Certiorari and Prohibition must be dismissed for lack of an actual, justificiable case or controversy.

WHEREFORE, for all the foregoing, the Petition for Certiorari and Prohibition is GRANTED in part and Section 2 of Resolution No. 2772 in its present from and the related letter-directives dated 22 March 1995 are hereby SET ASIDE as null and void, and the Temporary Restraining Order is hereby MADE PERMANENT. The Petition is DISMISSED in part, to the extent it relates to Section 8 of Resolution No. 2772. No pronouncement as to costs.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, and *Francisco, JJ.*, concur.

Quiason, J., is on leave.