



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal

SESSION NO. 77

Monday, March 21, 2011

**FIFTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 77
Monday, March 21, 2011

CALL TO ORDER

At 3:26 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

PRAYER

Sen. Sergio R. Osmeña III led the prayer, to wit:

O Lord, we are always grateful for Your love and protection. Fill us with compassion towards all those who are suffering whatever kinds of distress during this difficult period.

Dear God, wrap Your protective wings around the thousands of our overseas Filipino workers caught in the crossfires in the Middle East and North Africa. Watch over our *kababayans* trapped in Japan. Send Your angels to guard them. Keep them from harm and watch over their well being. Build a wall of fire around them and surround them like a shield.

Give strength to the millions of our Japanese brothers and sisters who are now at their most vulnerable following the succession of calamities that have befallen them. Give them the assistance that You have promised to those who ask it, that they may overcome fears and go bravely forward.

Lastly, enlighten us that we might govern wisely and ensure the protection of all Filipinos. With humble heart, we surrender to You everything that we have and we are.

We ask these through our Immaculate Mother.

Amen.

NATIONAL ANTHEM

The Juan Luna Elementary School Children's Choir led the singing of the National Anthem and thereafter rendered the song, entitled "*Sa Mahal Kong Bayan.*"

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Atty. Emma Lirio-Reyes, called the roll, to which the following senators responded:

Angara, E. J.	Lapid, M. L. M.
Arroyo, J. P.	Legarda, L.
Cayetano, A. P. C. S.	Marcos Jr., F. R.
Cayetano, P. S.	Osmeña III, S. R.
Defensor Santiago, M.	Pangilinan, F. N.
Drilon, F. M.	Recto, R. G.
Ejercito Estrada, J.	Revilla Jr., R. B.
Enrile, J. P.	Sotto III, V. C.
Escudero, F. J. G.	Zubiri, J. M. F.
Honasan, G. B.	



With 19 senators present, the Chair declared the presence of a quorum.

Senator Guingona arrived after the roll call.

Senators Trillanes and Villar were on official mission abroad.

Senator Lacson was absent.

DEFERMENT OF THE APPROVAL OF THE JOURNAL

At the instance of Senator Arroyo, upon motion of Senator Sotto, there being no objection, the Body deferred the consideration and approval of the Journal of Session No. 76 (March 16, 2011) to a later hour.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of Mr. Carl McCall, former New York State Senator and U.S. Ambassador to the United Nations.

Senate President Enrile welcomed Mr. McCall to the Senate.

APPROVAL OF SENATE BILL NO. 2640 ON THIRD READING

Upon motion of Senator Sotto, there being no objection, the Body considered, on Third Reading, Senate Bill No. 2640, printed copies of which were distributed to the senators on March 17, 2011.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, upon motion of Senator Sotto, there being no objection, the Secretary of the Senate read only the title of the bill, to wit:

AN ACT TO PROMOTE FINANCIAL VIABILITY AND FISCAL DISCIPLINE IN GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND TO STRENGTHEN THE ROLE OF THE STATE IN ITS GOVERNANCE AND MANAGEMENT TO MAKE THEM MORE RESPONSIVE TO THE NEEDS OF PUBLIC INTEREST AND FOR OTHER PURPOSES.

The Secretary called the roll for nominal voting.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

Angara	Lapid
Cayetano (A)	Legarda
Cayetano (P)	Marcos
Defensor Santiago	Osmeña
Drilon	Pangilinan
Ejercito Estrada	Recto
Enrile	Revilla
Escudero	Sotto
Honasan	Zubiri

Against

Arroyo

Abstention

None

With 18 senators voting in favor, one against, and no abstention, the Chair declared Senate Bill No. 2640 approved on Third Reading.

EXPLANATIONS OF VOTES

By Senator Arroyo

Senator Arroyo stated that he participated in the plenary deliberations of Senate Bill No. 2640 and even introduced amendments which the Sponsor accepted, in the hope that the damages to be inflicted by the bill will at least be modulated.

However, he felt that despite the innocuous title of this bill, "TO PROMOTE THE FINANCIAL AND FISCAL DISCIPLINE IN GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS ...AND TO MAKE THEM MORE RESPONSIVE TO THE NEEDS OF PUBLIC INTEREST AND OTHER PURPOSES," the understated effect and impact of the bill is the blanket authority for mass layoff of the GOCCs' chief executive officers and directors.

Senator Arroyo pointed out that there are 157 GOCCs, according to the Sponsor, so that if each

157

GOCC has 10 appointed directors, that means 1,570 directors can be laid off anytime on the standards that will be laid down by the soon-to-be-created Government Commission for Government-Owned or Controlled Corporations (GCG); and also on the dock are the 157 CEOs of all government corporations, except the Bangko Sentral, but including the crown jewels such as Land Bank, DBP, SSS, GSIS and others. Worse, he said that the CEOs and directors do not have to be informed or removed, because all that needs to be done is to appoint their successors, and their terms of office automatically end. He described Senate Bill No. 2640 as a patronage bill, for in the altar for distribution are 157 CEO positions.

Also, Senator Arroyo pointed out that the powers of the new GCG would exceed even that of the constitutionally mandated Civil Service Commission.

For the reasons stated, he said that he cast a *no* vote with neither bitterness nor rancor, but with sadness, for these are the ways of politics.

By Senator Cayetano (A)

Senator Cayetano (A) stated that his vote was a critical *yes* as he asked leave to submit a written explanation of his vote. He expressed support for the efforts to reform the GOCCs and that he wanted to give the measure a chance. He said that he also participated in the period of amendments for fear that the bill, instead of addressing reforms, might create a monster. He said that while Senator Drilon had graciously accepted the amendments that he and Senator Arroyo proposed, he expressed apprehension nonetheless about some of the provisions of the bill.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of the students of the Lyceum University of the Philippines.

Senate President Enrile welcomed the guests to the Senate

REFERENCE OF BUSINESS

The Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

Letter from Speaker Feliciano Belmonte Jr. of the House of Representatives, dated 21 September 2010, designating Representatives Teves (P.H.), Maliksi (E.), Garcia (P.) and Lagman (E.) as Members of the House panel to the Congressional Oversight Committee on Agrarian Reform (COCAR).

To the Committee on Rules

BILLS ON FIRST READING

Senate Bill No. 2749, entitled

AN ACT REGULATING THE USE OF PLASTIC BAGS, AND FOR OTHER PURPOSES

Introduced by Senator Marcos Jr.

**To the Committees on Trade and Commerce;
and Environment and Natural Resources**

At this juncture, Senate President Enrile relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.

Senate Bill No. 2750, entitled

AN ACT REQUIRING ALL SCHOOL EMPLOYEES AND THOSE EMPLOYED IN CONNECTION WITH A SCHOOL TO RECEIVE NBI BACKGROUND CHECKS PRIOR TO BEING HIRED

Introduced by Senator Defensor Santiago

**To the Committees on Education, Arts and
Culture; and Justice and Human Rights**

Senate Bill No. 2751, entitled

AN ACT PROVIDING COMPETITIVE GRANTS TO LOCAL GOVERNMENTS FOR REBATES, LOANS, AND OTHER INCENTIVES TO ELIGIBLE INDIVI- DUALS OR ENTITIES FOR THE PURCHASE AND INSTALLATION OF SOLAR ENERGY SYSTEMS FOR PROPERTIES LOCATED IN THE PHILIPPINES

MS

Introduced by Senator Defensor Santiago

To the Committees on Energy; Local Government; Ways and Means; and Finance

Senate Bill No. 2752, entitled

AN ACT DECLARING THE FIRST DAY OF EVERY MONTH AS EARTH CONSCIOUSNESS DAY

Introduced by Senator Defensor Santiago

To the Committees on Environment and Natural Resources; Education, Arts and Culture; and Finance

Senate Bill No. 2753, entitled

AN ACT ESTABLISHING THE SOLIDARITY FUND OF THE LOCAL GOVERNMENT UNITS FOR DISASTER RESPONSE AND RECOVERY

Introduced by Senator Guingona III

To the Committee on Local Government

RESOLUTIONS

Proposed Senate Resolution No. 432, entitled

RESOLUTION ADOPTING THE RULES OF PROCEDURE ON IMPEACHMENT TRIALS

Introduced by Senator Sotto III

To the Committee on Rules

Proposed Senate Resolution No. 433, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON REVITALIZING THE LOCAL ONION INDUSTRY AND INVESTIGATING THE REPORTED LARGE-SCALE SMUGGLING OF IMPORTED ONIONS IN THE COUNTRY

Introduced by Senator Defensor Santiago

To the Committees on Agriculture and Food; Trade and Commerce; and Ways and Means

Proposed Senate Resolution No. 434, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE CONTINUED PREVALENCE OF ONLINE CHILD PORNOGRAPHY AND THE URGENT NEED FOR PROACTIVE ENFORCEMENT OF EXISTING LAWS TO CURB THESE ABUSES

Introduced by Senator Defensor Santiago

To the Committees on Youth, Women and Family Relations; and Justice and Human Rights

Proposed Senate Resolution No. 435, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE REPORTED DISCRIMINATORY PRACTICE OF SOME LAW ENFORCEMENT OFFICERS IN PRESUMING THAT WOMEN CAUGHT FOR VAGRANCY ARE ENGAGED IN PROSTITUTION IF FOUND CARRYING A CONDOM

Introduced by Senator Defensor Santiago

To the Committees on Youth, Women and Family Relations; and Public Order and Dangerous Drugs

Proposed Senate Resolution No. 436, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON INSTITUTING THE WIDESPREAD USE OF USED VEGETABLE COOKING OIL AS AN ALTERNATIVE TO DIESEL FUEL IN ORDER TO REDUCE TOXIC EMISSIONS FROM VEHICLES AND TO PREVENT RECYCLING

**VEGETABLE OIL FOR HUMAN
CONSUMPTION**

Introduced by Senator Defensor Santiago

**To the Committees on Energy; and Environ-
ment and Natural Resources**

COMMUNICATION

Letter from the National Economic and Development Authority, dated 24 February 2011, submitting to the Senate the list of foreign retailers selling high-end or luxury goods pursuant to Section 8 of Republic Act No. 8762 (Retail Trade Liberalization Act of 2000).

To the Committee on Trade and Commerce

ADDITIONAL REFERENCE OF BUSINESS

RESOLUTION

Proposed Senate Resolution No. 437, entitled

**RESOLUTION CONGRATULATING
SENATOR MIRIAM DEFENSOR
SANTIAGO FOR BEING ONE OF
THE TEN AWARDEES OF THE
WOMANITY AWARD BY THE
FEMALE NETWORK AND FOR
BEING LISTED AS ONE OF THE
TWENTY MOST INFLUENTIAL
FILIPINAS OF 2010 NAMED BY
GOOGLE.COM**

Introduced by Senator Ejercito Estrada

To the Committee on Rules

PROPOSED SENATE RESOLUTION NO. 437

Upon motion of Senator Sotto, there being no objection, the Body considered Proposed Senate Resolution No. 437, entitled

**RESOLUTION CONGRATULATING
SENATOR MIRIAM DEFENSOR
SANTIAGO FOR BEING ONE OF
THE TEN AWARDEES OF THE
WOMANITY AWARD BY THE
FEMALE NETWORK AND FOR
BEING LISTED AS ONE OF THE**

**TWENTY MOST INFLUENTIAL
FILIPINAS OF 2010 NAMED BY
GOOGLE.COM.**

With the permission of the Body, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

**ADOPTION OF PROPOSED
SENATE RESOLUTION NO. 437**

Upon motion of Senator Sotto, there being no objection, Proposed Senate Resolution No. 437 was adopted by the Body.

COAUTHORS/SPONSORS

Senator Sotto manifested that all senators are coauthors/sponsors of Proposed Senate Resolution No. 437.

APPROVAL OF THE JOURNAL

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 76 (March 16, 2011) and considered it approved.

SUSPENSION OF SESSION

Upon motion of Senator Zubiri, the session was suspended.

It was 3:47 p.m.

RESUMPTION OF SESSION

At 3:48 p.m., the session was resumed.

PRIVILEGE SPEECH OF SENATOR ZUBIRI

Availing himself of the privilege hour, Senator Zubiri prefatorily recited the poem "Invictus," to wit:

*Out of the night that covers me,
Black as the pit from pole to pole
I thank whatever gods maybe
For my unconquerable soul.*

*In the fell clutch of circumstance
I have not winced nor cried aloud.
Under the bludgeonings of chance
My head is bloody, but unbowed.*

*Beyond this place of wrath and tears
Looms but the Horror of the shade,
And yet the menace of the years
Finds and shall find me unafraid.*

*It matters not how strait the gate,
How charged with punishments the scroll,
I am the master of my fate
I am the captain of my soul.*

He then proceeded to deliver his privilege speech, entitled "The Unconquerable," to wit:

This poem is by William Ernest Henley, written by him in his hospital bed, trying to survive a deadly disease. This poem is about courage in the face of death and holding one's own dignity despite the dignities life placed before us, or in this particular case, the people of the Autonomous Region in Muslim Mindanao, and the possible threat to its democracy and the impending death of the people's right to suffrage.

I stand here before you as a senator from Mindanao, discussing an issue of Mindanao. Last Thursday, I flew to Cotabato City and some areas of the former province Shariff Kabunsuan, to consult with the Muslim leaders there, and for the record, most of them were not politicians at all. I spoke to teachers, students, doctors and nurses, government employees of ARMM, soldiers and policemen and even *Imams* and leaders of their religious faith. In different degrees of conviction, they all told me that they are very wary over the idea of postponing the elections in the Autonomous Region in Muslim Mindanao. They were, however, all unanimous in opposing the plan of appointing the leaders of the region and literally taking away their right to choose who should lead them, and eventually robbing them of their right to decide their own fate.

Even the Auxiliary Bishop of Cotabato City, Bishop Jose Colin Bagaforo, was against the postponement of the ARMM elections and the appointment of regional officials. During my consultation with him, he mentioned that this could be a recipe for disaster in the area, and this could further weaken ARMM as an institution for autonomy in the region.

I dare ask the question: Was the President of the Republic ill-advised on the decision to support House Bill No. 4146? I carefully studied the position of both sides to this controversial proposed measure. The allies of the President and the proponents of this measure on one side, say that this is a move to reform the Autonomous Region in Muslim Mindanao by instituting

the needed safeguards to prevent fraud in the future, and that the appointment of regional officials is key to ensuring that these reforms will be put in place, and that the choices that will be made will be done by consultation.

More questions hound me. First, is it legal? Will it be allowed under our democracy? Will it be unconstitutional? And what criteria, if ever, would be used to choose appointed officials, and who would the President consult with? A few political leaders who are on his side or, may I say, on the *Akbayan* side?

Many on the side of the President on this issue will not argue that the ARMM has been postponed several times in the past, so that there is a legal precedent on the matter. However, those against House Bill No. 4146 will argue that the postponement would bring periods of time to allow the Comelec to prepare for the elections, and that there was not once, any time in the past, when the leaders were appointed by Malacañang.

During the extension period, the elected leaders remained in a holdover capacity, as they argued that at least, those who sat during the duration of the extension period, had gone through an electoral process decided upon by their own people.

So, it seems the main question here is not just the temporary suspension of the people's right to suffrage, but the suspension of a democratic process that allow them, 4.5 million, to choose their leaders and decide their fate. On the legal and constitutional issues, I would await learned opinions of our constitutionalist in this august Chamber, such as Senators Miriam Defensor Santiago, Juan Ponce Enrile, Joker Arroyo, Edgardo Angara and the others to add to the wisdom of these debates.

But, let me just add, what several luminaries and even authors of the Organic Act had said, "To allow the President to appoint caretaker officials to the ARMM would be an amendment to the Autonomy Act." And they argued that "under the Autonomy Law, any amendment to such statute would have to be approved by Congress with a 2/3 vote of all its Members. It would also have to be submitted to the ARMM voters in a plebiscite for approval or rejection."

Those who wrote and crafted the Organic Act believed that the holding of the ARMM elections separately from the national and local elections is to allow the COMELEC, the poll watchdogs, military and police, and all the stakeholders, to concentrate on the preparation of

me

clean and honest elections in the Autonomous Region in Muslim Mindanao.

In a synchronized elections, it would be a free-for-all among all political parties and groups in the area that could influence the outcome of the elections. Not to mention, the attention would be diluted away from the region and thus allowing possible shenanigans to once again take place.

I am not alone in this hypothesis. If certain sectors do not want to take my word for it, then, at least, let us listen to the other voices of reason on this issue. Let me quote from the academe and the NGOs, particularly from NAMFREL: "Postponing the ARMM elections defeats the institutional standard of free and fair elections, and that the government should consult the people if they agree to suspend the ARMM polls."

From the Consortium on Electoral Reforms: "Elections should push through because it is an exercise of democratic rights by the people of the Autonomous Region in Muslim Mindanao. And if we presume that we are democratic, there should be no postponement of the ARMM elections whatsoever."

Another quotation from Fr. Eliseo R. Mercado, Jr. of the Institute of Autonomy and Governance: "Put an end to the mockery of our autonomy and self-determination. The elections on August should be held with no ifs or buts as it would show respect for the law."

The Center for People Empowerment in Governance says: "Postponing the elections would institutionalize indecision on the matter of electing the ARMM leadership and that appointing caretaker officials will only lead to acrimonious debates and animosities."

And even the Parish Pastoral Council for Responsible Voting headed by Henrietta de Villa wants the elections to proceed, and she says: "Amongst our partners so far, they want the elections to push through."

Even our friends from media, like Ms. Rina Jimenez-David, and I quote: "Clearly, something is wrong in the ARMM, as exemplified in the horrific Maguindanao massacre which symbolized the prevailing culture of abuse and impunity in the ARMM and elsewhere. But is postponing the ARMM elections, without a formal referendum among its citizens, the answer to its ills? Or would the flexing of political muscle among the dominant pro-Aquino forces in Manila only exacerbate the alienation of the ARMM from the nation?"

From Emil Jurado, I quote: "President Aquino should rethink his plan to have the election in the ARMM reset. He should listen to many of the legislators in Mindanao, particularly of Muslim lawmakers, on the dangers of postponing the scheduled polls. The President's move could erupt into a flashpoint. A postponement is a prescription for trouble!"

And from *Malaya's* editorial, I quote: "What presumptuousness! What are the residents of ARMM? Wards of imperial Manila? The ARMM was set up precisely so that the Muslims in the South can enjoy some form of political autonomy. That means allowing themselves to run their own affairs subject only to the following limitations: they cannot enter diplomatic relations with other countries; they cannot set up a military force separate from the Armed Forces; they cannot print their own money, etc."

And I continue: "In a democracy, people are free to make a mess of themselves and their institutions. They have to learn from their own mistakes. To deny this principle is to flirt with the dangerous idea of paternalism. If we start enticing the notion that we in Manila know best what is good for the ARMM residents, we could end up proposing that these immature people of a different culture be fenced up in a reservation." I am quoting the *Malaya* editorial of March 18, 2011.

Not to mention, a number of lawmakers, both congressmen and senators, who have criticized the proposal. Remember, my colleagues, that almost all the Muslim lawmakers opposed this move to postpone and appoint, and consider this undemocratic and unconstitutional. Are not the Muslim lawmakers, the representatives of their people in the Legislature? Then why are we not listening to them on this issue?

It would be tantamount, for example, to forcing changes in the democratic process of Bicol without the support of our Bicolano congressmen and senators, and only using the power of the majority to subvert their will. Would it not be going overboard with our presidential prerogative and even bordering on the dictatorial?

Even the President's uncle and aunt, Mr. Peping Cojuangco and Madam Tingting Cojuangco are against their nephew's plan to support House Bill No. 4146, by saying that pushing through with the ARMM polls this year would be keeping with the Aquino's democratic legacy.

Former Sen. Aquilino Pimentel, author of the Local Government Code and Organic Act, said it

bluntly: "Why do we interfere with the affairs of the Autonomous Region in Muslim Mindanao? We should let the people decide whom to vote. Some mistakes have been committed here and there but let them become mature leaders of their destiny."

I totally agree with all their points.

If reform is what we want in ARMM, then let us give them the reform that they need without having to suppress the democratic processes that their people have the right to decide on their future. *The best form of consultation and consensus is a thorough, free, fair and honest election and not a pulong-pulong.* The best reform that we can give the Autonomous Region in Muslim Mindanao and its people is to make sure that the sanctity of the ballot is protected and every vote is counted. And that the voter's list is cleansed so that only the duly qualified voters may participate.

This can be done now, and not in two years. The President can support, if he wishes, a candidate whom he sees fit to lead the ARMM to its renaissance this August. Not necessarily a politician, as he wished that the region be led by somebody with management skills and not just political skills.

The President can order the replacement of all COA auditors and could even, if I may suggest, appoint Ms. Heidi Mendoza to oversee ARMM and clean it from its soiled past. And the President may even order all military and police who are still under his control within the Republic to crack down on all armed political groups, and remove and dismantle all political warlords in its territory. All this without having to suppress democracy of the people and living a legacy that the mother of our President, former President Corazon Aquino, had left us. *The legacy that she protected dearly even until her death.*

In closing, let me repeat the last paragraph of William Ernest Henley's poem with a bit of an amendment for the people of ARMM: "It matters not how strait the gate. How charged with punishment the scroll. They are the Masters of their fate. They are the Captains of their soul."

INTERPELLATION OF SENATOR MARCOS

At the outset, Senator Marcos stated that he had taken a particular interest in the ARMM election because it will be part of the country's political history and that its postponement will necessitate an amendment to the law. Should the House bill reach the Senate, he said, it will come before the Committee on Local Governments which he chairs.

Relative thereto, Senator Marcos opined that any postponement of the ARMM elections requires a very important reason. He recalled that there were very strong recommendations to postpone the barangay elections for several reasons, among them the need to redesign the Sanggunian Kabataan, that there were already precedents on the postponement, and other practical and logistical reasons. Notwithstanding, however, he said that the position of President Aquino that the barangay officials should have a fresh mandate prevailed and the barangay elections proceeded as scheduled.

Asked by Senator Marcos on the urgent reason behind the proposal to postpone the ARMM elections, Senator Zubiri stated that House Bill No. 4146 basically seeks to institute reforms and according to the proponents, the only way to do it is to appoint officials to the vacated positions so that books of the ARMM could be opened. He believed, however, that such reforms can be done without having to flirt with the idea of trampling a democratic exercise.

Senator Zubiri narrated that during a meeting with officials of the Spanish Embassy, they had a discussion that if the President of Spain appointed members of the Basque Regional Autonomous Assembly, his party would lose in the next election.

On whether the appointment of officials would be the best way to institute changes in the ARMM, Senator Zubiri believed that replacing the officials through clean and honest elections could lead to institutional reforms. He stated that if the President wanted to clean up ARMM, he could support a reformist candidate. He said that more often than not, administration candidates have a strong chance of winning, citing Dr. Farouk Hussein who was not a politician and yet he was elected as ARMM governor.

Senator Marcos stressed that what is needed are structural reforms so that whoever is elected will be able to fulfill his/her duties and functions efficiently and properly and thus avoid the weaknesses of past leadership. He asked whether the best way of instituting reforms is to fix the system itself rather than appoint Malacanang's own people who are supposed to do precisely that.

At this juncture, upon leave of Senators Zubiri and Marcos, Senate President Enrile clarified that the purpose of the postponement is not just to clean

up the mess but rather to economize the resources of government by synchronizing the ARMM elections with the national elections. He explained that in separate elections, too much money is lost and a large chunk of votes create command votes in the national elections which distorts the will of the people. He stated that if the ARMM elections were to push through as scheduled, the elected officials would have a fixed term and that could pose a problem in the proposal of synchronizing the ARMM elections with the national elections.

On the other hand, Senate President Enrile stated that if the elections were postponed, there would be a problem either with holdovers or with appointees, depending on the final decision of the President. He explained that the dilemma that the House bill seeks to correct has nothing to do with preferring one group over another but rather how to synchronize elections to economize on government resources.

To the observation of Senator Zubiri that the issue of cost was the argument used in proposing to postpone the barangay elections, Senate President Enrile agreed as he recalled that he was the one who proposed a synchronization of elections for all elective posts but he nonetheless agreed that those holding elective barangay positions should seek a fresh mandate. He pointed out that the barangay elections are different from the ARMM elections.

Senate President Enrile asserted that if it is the sense of the Senate not to postpone the ARMM elections, it ought to be a decision of the Senate as a body. If the Senate were to reform the system, he asked if it could be done structurally, and what kind of remedy the Senate would have to offer to attain a degree of synchronization to avoid the command votes that affect the national elections and distort the will of the people, and save the taxpayers' money.

Responding to the query, Senator Marcos stated that the barangay officials elected last October 25, 2010, like every elective official, would run again in the synchronized elections in May 2013, but these officials would still hold on to their position until October 2013 so that they would not have a reduced term. He suggested that the ARMM elections follow the example of the barangay elections, meaning that the ARMM elections proceed as scheduled, and those elected will subject themselves to the May 2013 elections but they will continue holding on to their position until October so that their term would

not be reduced. He disclosed that many would-be candidates in the upcoming ARMM elections even agreed to a reduced term in order to have a synchronized election in May 2013.

Senate President Enrile recalled that the thrust of the discussion when the issue of the barangay elections came up last year is that a law would be passed to amend the term of the barangay officials to synchronize it with the national elections in 2013. Similarly, he stated that Congress has to pass a law allowing the ARMM elections to push through and shortening the term of the elective officials so that there would be synchronized elections in May 2013.

Senator Zubiri informed the Body that after consultations with lawmakers who voted for the Organic Act, he learned that the reason for holding ARMM elections separate from the local and national elections was that NGOs, election watchdogs, the military and the police are able to concentrate on securing the sanctity of the ballot. He said that it was a known fact that trouble erupts in the ARMM during elections.

Senate President Enrile stated that the ARMM elections have to be isolated because there is always a need for the military to attend to the security problems. He noted that the purpose of postponing the ARMM elections is to synchronize it with the national elections so that the command votes could be avoided. He posited that this would make the process more orderly and would not require the concentration of the full strength of the military in one area.

As regards the command votes, Senator Zubiri stated that the same PCOS machines were used in the last ARMM elections and the voting turnout was 98% with the leaders getting 90% of the votes. If the ARMM election were postponed and synchronized with the 2013 national elections and interim officials were appointed, he asked how Congress could assure the people that the appointees would not be the same people they were supposed to elect.

Senate President Enrile said that everything is possible but because synchronized elections have not been tried, there could always be dangers. He pointed out that apparently, there was a division among the Muslim leaders because governors of the ARMM provinces, for instance, no longer want to be part of ARMM and do not want elections. He disclosed that

MS MS

he has talked to Muslim leaders like Congressmen Tupay Loong and Simeon Datumanong who, on the other hand, are for the conduct of the elections. He stated that he does not know whether the Muslim leaders have consulted with the people of ARMM or whether there was indeed an overwhelming sentiment for an election. He doubted that any of the Members can say that he has talked to all the parties and that the majority of them were in favor of pushing through with the election.

Senator Zubiri said that precisely he would insist that the Committee on Constitutional Amendments, Revision of Codes and Laws and the Committee on Local Government conduct public hearings in Marawi, Cotabato City, Zamboanga City, and the island provinces of Sulu, Basilan and Tawi-Tawi.

Senator Marcos said that many proposals have been put forward on how to reorganize and improve the performance of the ARMM in terms of representing its people. He noted that according to those opposing the postponement of the elections, the postponement of the elections and the appointment of ARMM officials were the least palatable and least effective among the proposals. He said that the postponement of barangay elections has been used as an example but along with the proposal to postpone, there was no proposal to appoint officials to vacated positions; in the case of ARMM, there was a proposal not only to postpone the ARMM elections but also to appoint officials to vacated elective positions. He explained that as a general principle, a special election is conducted to fill an elective position that was vacated for one reason or another such as the retirement, death, or resignation of an official, and the person elected to the position is given a fresh mandate.

Senator Marcos argued that by postponing the elections, the elective positions would be artificially vacated, and the Executive would be interfering in the electoral process by appointing officials to vacated positions. Surely, he said, this runs contrary to all the principles of universal suffrage which allows people to be represented by the people of their own choice.

Senate President Enrile asked whether the Committee chair would find acceptable a compromise bill that would not postpone the election but would cut the term of office of officials to be elected in the forthcoming election to coincide with the next national election. Senator Marcos replied that as Committee chair, he would be able to put aside his personal

opinion and conduct hearings to weigh the arguments for or against the measure and come up with the best solution. Should such a proposal come up, he asserted that the Senate should come up with a very solid deadline. He noted, however, that the last session day would be on Wednesday, March 24, 2011, and if such measure has not yet been approved by the House, it would have to be taken up immediately upon the resumption of the session on May 9, 2011. He said that another problem in terms of scheduling is that if the elections are to be held as scheduled on August 8, 2011, the Comelec has set the period of filing of candidacy on May 2, 2011. He stated that these practical considerations should be taken into account.

Senate President Enrile agreed, as he stressed that the Senate has to address the constitutional issue and, at the same time, find a solution. He said that he would propose the cutting of the term of office of the elected officials until 2013.

Senator Zubiri pointed out that Article XVII, Section 1 of RA 9054 provides, "Consistent with the provisions of the Constitution, this Organic Act may be amended or revised by the Congress of the Philippines upon a vote of two-thirds (2/3) of the members of the House of Representatives and of the Senate voting separately." He maintained that if the House intended to pass the measure within the week, it must muster at least two-thirds vote.

Senate President Enrile said that Congress cannot do away with the voting requirement imposed by the Constitution.

Asked by Senate President Enrile whether Congress was in a position to limit the term of office of the elected ARMM officials should the Senate and the House of Representatives attain the two-thirds vote required, Senator Zubiri replied that another stumbling block to the process is Section 3 of the same Article which states, "Any amendment to or revision of this 'Organic Act,' shall become effective only when approved by a majority of the votes cast in a plebiscite called for the purpose, which shall be held not earlier than sixty (60) days or later than ninety (90) days after the approval of such amendment or revision." He observed that the constitutional requirements made the process a little bit more difficult and Congress was running out of time.

At this point, Senator Drilon stated that as he understood it, the theory of Senate President Enrile is

that the elections shall be conducted first and then the terms of office of the elected officials shall be cut by amending the Organic Act of ARMM which shall need two-thirds vote of each House voting separately and, thereafter, submit it to a plebiscite. He stated that this is feasible.

Senate President Enrile posited that conducting a plebiscite would be a better way of determining the sentiment of the people instead of conducting hearing because it is a direct proposal to the people of ARMM and it is up to them to accept or reject.

Senator Zubiri said that he was open to the idea as long as the elections are conducted and that the elective officials of ARMM are given a fresh mandate.

Senator Marcos noted that people on either side of the debate were willing to go through with the elections because they feel they have enough support and political strength to win, but, at the same time, they also understand the importance of synchronized elections to the Aquino Administration and they would be amenable to the proposal as long as it is understood that something will happen after the elections.

Senator Marcos clarified that essentially, the proposal is to hold elections on August 8, 2011, after which, Congress shall propose the shortening of the term of office of the elected officials so as to synchronize the subsequent ARMM elections with the national and local elections in 2013. He stated that proposal should be taken on board as having been propounded by Senate President Enrile. He believed it is something that would gain sufficient consensus from all stakeholders. Senator Zubiri agreed with Senator Marcos.

Asked by Senator Marcos on how the Muslim leadership and the people of ARMM would react to the postponement of elections and the removal from office of ARMM officials and the appointment in their place of officials by the Aquino Administration, Senator Zubiri stated that as mentioned in his speech, the people of ARMM were wary of the plan to postpone with varying levels of conviction — some vehemently opposed it while others were open to it, saying that it has been done in the past. However, with regard to the issue of appointment of ARMM officials, he noted that the people were unanimously opposed to it. Based on his conversations with the people of ARMM and his understanding of its

culture, he said that the people would not respect the appointed officials and there could be animosity.

Senator Marcos said that it would indeed be very difficult for the appointed officials to be recognized as political leaders, especially in areas where they do not come from or where they are not members of the dominant clans.

Asked by Senator Marcos what the effect of nonrecognition by the people of ARMM would be, Senator Zubiri replied that it is possible the people or the local governments would not pay heed to the programs of the appointed ARMM Governor. He underscored that the ARMM assembly is supposed to comprise of representatives from districts who were chosen by the people themselves. He cautioned that the appointments could alienate incumbent assemblymen from political families, cause confusion or even spark violence. It should be recalled, he said, that the Organic Act was created under the Tripoli Agreement, upon the initiative of President Marcos, to bring about what the Muslims always wanted — autonomy. He pointed out that if the vacated elective positions were filled up by Malacañang, the local political leaders would raise a howl of protest and say that imperial Manila was again interfering in their local affairs. For the MILF and other armed groups, he said, this can also be another excuse to claim that they have no participation in the affairs of their government.

Asked whether it was his position that the reforms sought to be instituted to reform ARMM would cause conflict in the region instead, Senator Zubiri replied in the affirmative.

Senator Marcos stated that it was alarming to hear that nonrecognition of the would-be Palace appointees by the present ARMM leadership and the citizenry might even cause violence.

Asked why the results of the public hearings which were conducted in Marawi, Cotabato and Zamboanga City were not included in the committee report that was presented in the House of Representatives, Senator Zubiri explained that the committee report was already approved even before the public hearings were conducted. He narrated that almost all the Muslim lawmakers walked out of the hearing because they felt that they were being dictated upon by the majority from Manila, Luzon and Visayas. He disclosed that it was upon

rb

the suggestion of Congressman Tupay Loong to the President that the people ARMM be heard, that the committee conducted the hearings in Marawi, Cotabato and Zamboanga City. However, he stated that the hearings were non-bearing because these were conducted after the approval of the committee report. He hoped that in the Senate, public hearings would be conducted first before the appropriate committee decides.

Moreover, Senator Zubiri stated that there are a lot of landmines in this matter. He said that if the results of the voting on the amendments to the Organic Act does not reach the requirement of two-thirds of both Houses, the congressmen from the ARMM would take the matter to the Supreme Court and declare it as moot and academic. He agreed with the idea of Senate President Enrile to push through with the elections in August and allow the people to exercise their right to suffrage, and then amend the ARMM Organic Act afterwards by way of a plebiscite following the two-thirds vote of both Houses voting separately.

Senator Marcos stated that if the results of the public hearings which were conducted in the ARMM were not deliberated upon or included in the final report in the House of Representatives, the Senate will have to perform that function because it is necessary in the legislative process. He said that the appropriate Senate Committee should also conduct hearings in Jolo or Tawi-Tawi. He stated that if the Senate would insist on the postponement of the ARMM elections on August 8, the proposals of the Members should be addressed squarely and the deficiencies or weaknesses which have been identified in the proposal and in the ARMM Organic Act should be studied and discussed extensively before coming up with a consensus.

INTERPELLATION OF SENATOR LEGARDA

Senator Legarda asked if there was material time to deal with the issue, considering that the filing of the certificates of candidacy will be in May and the elections are scheduled in August. Besides, she pointed out the Senate would be going on recess, and the Articles of Impeachment would soon be transmitted to the Senate, at which time, it would be converted into an Impeachment Court and would conduct the impeachment proceedings at least three days a week in addition to the plenary sessions and committee hearings.

Senator Marcos remarked that at this time, the Senate has run out of material time. Hypothetically, he explained that even if the measure was approved during the day, transmitted to the Senate the next day and referred to the committee, public hearings would still have to be conducted even during the congressional break. He stated that if the hearings would not be finished before the resumption of the session on May 9, 2011, it would be way behind the schedule as the filing of the COC for the ARMM elections would be on May 2, 2011. He added that the procedural requirements would further delay the postponement measure to be passed before the elections.

Senator Legarda asked if the measure would serve dramatically in favor of the people in the ARMM and whether the postponement of the election would in effect end the strife in the ARMM and dramatically improve the educational system and quality of health services in the area.

Senator Zubiri believed that if the President would want to reform the ARMM, he should start by choosing the right administration candidate to lead the area to its renaissance. However, he stated that even if the President institutionalized the reforms, the ARMM would not progress if a corrupt, uneducated, and incapable official would be appointed. He said that a leader with upright moral character and a heart for the poor can institutionalize reforms with the assistance of the President. He added that the President can appoint new members of the Commission on Audit in the ARMM to make sure that the money to be brought to the area would be accounted for, and suggested that Heidi Mendoza run the ARMM-COA for at least one year to make sure that all the systems would be in place.

He recalled that during the time of the Ampatuan Massacre, the emergency rule was employed such that all the reforms and safeguards were put in place without having to postpone the elections and appoint officials. He said that when Zaldy Ampatuan was put to jail, the vice governor assumed governorship and the senior member of the assembly assumed the vice governorship pursuant to the line of succession as mandated by the ARMM Organic Act.

Asked if there was ever an instance in the history of the ARMM when an elected official was appointed, Senator Zubiri answered in the negative.

ms

**REFERRAL OF SPEECH
TO COMMITTEES**

Upon motion of Senator Sotto, there being no objection, the Chair referred the privilege speech of Senator Zubiri and the interpellations thereon to the Committees on Constitutional Amendments, Revision of Codes and Laws; and Local Government.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended to allow the Members to go into caucus.

It was 5:00 p.m.

RESUMPTION OF SESSION

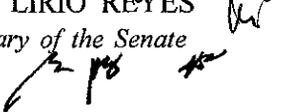
At 6:26 p.m., the session was resumed.

ADJOURNMENT OF SESSION

Upon motion of Senator Sotto, there being no objection, the President Pro Tempore declared the session adjourned until three o'clock in the afternoon of the following day.

It was 6:26 p.m.

I hereby certify to the correctness of the foregoing.


EMMA LIRIO REYES
Secretary of the Senate


Approved on March 22, 2011