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SESSION NO. 92

Monday, June 6, 2011

FIFTEENTH CONGRESS

FIRST REGULAR SESSION

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CALL TO ORDER

At 3:28 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

PRAYER

Sen. Teofisto "TG" L. Guingona III led the prayer to wit:

> As our First Regular Session in the Fifteenth Congress draws to a close, we take inspiration from the Bible in these timeless prophetic words from the 2 Chronicles 7:14:
>
> > If my people, who are called by my name, will humble themselves and pray and seek my face and turn from their wicked ways, then I will hear from heaven, and I will forgive their sin and will heal their land.
>
> Pray with me please.
>
> Almighty and most merciful God, we come before You today as elected servants of Your people. Today, we thank You for blessing the work of our hands and collective minds during the session of Congress, now about to close.
>
> Now, we humble ourselves before You to ask that our legislative work would now bear fruit, better the lives of our people, right those which are wrong, improve those which are mediocre, strengthen those which are weak, and bring our nation closer to that quality of life consistent with the abundance You have promised us.
>
> Now, we humble ourselves before You to ask that the work of our hands and collective minds would lead to the healing of our land; to the unity of our people's vision and purpose; to the solidarity among our diverse aspirations; and to the oneness of our nation's spirit.
>
> In You, may we find forgiveness for mistakes, shortcomings, failures, frustrations, and disappointments. May Your Father's love be the constant source of our shared strength wisdom as we humbly strive to serve our countrymen better.
>
> And may the glory and honor be Yours forever.
>
> Amen.

NATIONAL ANTHEM

The Senate Choir led the singing of the national anthem and thereafter rendered the song, entitled *Bayan Ko*.

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.	Honasan, G. B.
Arroyo, J. P.	Lacson, P. M.
Cayetano, A. P. C. S.	Lapid, M. L. M.
Cayetano, P. S.	Osmeña III, S. R.
Defensor Santiago, M.	Recto, R. G.
Drilon, F. M.	Revilla Jr., R. B.
Ejercito Estrada, J.	Sotto III, V. C.
Enrile, J. P.	Trillanes IV, A. F.
Escudero, F. J. G	Zubiri, Z. M.F.
Guingona III, T. L.	

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

Senators Marcos, Pangilinan and Villar arrived after the roll call.

Senator Legarda was on official mission abroad.

APPROVAL OF THE JOURNAL OF SESSION NO. 91

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 91 (June 1, 2011) and considered it approved.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of the members of the Reform ARMM Now Coalition and other guests from Mindanao.

Senate President Enrile welcomed the guests to the Senate.

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

APPROVAL OF SENATE JOINT RESOLUTION NO. 9 ON THIRD READING

Upon motion of Senator Sotto, there being no objection, the Body considered, on Third Reading, Senate Joint Resolution No. 9, printed copies of which were distributed to the senators on June 2, 2011.

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

JOINT RESOLUTION EXTENDING THE PERIOD OF EXISTENCE OF THE JOINT CONGRESSIONAL POWER COMMISSION.

Secretary Reyes called the roll for nominal voting.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

Arroyo	Honasan
Cayetano (A)	Lacson
Cayetano (P)	Lapid
Defensor Santiago	Osmeña
Drilon	Recto
Ejercito Estrada	Revilla
Enrile	Sotto
Escudero	Trillanes
Guingona	

Against

Angara	Zubiri

Abstention

None

With 17 senators voting in favor, two against, and no abstention, the Chair declared Senate Joint Resolution No. 9 approved on Third Reading.

EXPLANATIONS OF VOTE

By Senator Angara

Senator Angara explained his negative vote, to wit:

> Senate Joint Resolution No. 9 is an encroachment on Executive power and is unconstitutional.

The powers of the Power Commission (PowerCom) given under Senate Joint Resolution No. 9 authorize the Powercom to perform functions of the Executive Branch. It does not merely act as an oversight committee.

Senate Joint Resolution No. 9 seeks extension of another 10 years, avowedly to see to the completion of the following goals and objectives under the EPIRA:

1. Implementation of retail competition and open access on distribution wires;
2. Formation of the Independent Market Operation (IMO);
3. Determination, fixing and approval by the Energy Regulatory Commission (ERC) of a Universal Charge (UC);
4. Reduction of the royalties, returns and taxes collected for the exploitation of all indigenous sources of energy to effect parity of tax treatment with existing rates for imported coal, crude oil and other imported fuels and the corresponding reduction of the power rates from all indigenous sources of energy; and
5. Performance by the National Power Corporation Small Power Utilities Group of the missionary electrification mission.

In the case of the Renewable Energy Act, (RE Act), under Senate Joint Resolution No. 9, the PowerCom is tasked with the implementation of the Renewable Energy Act which entails, among others, the formulation or establishment of:

1. The Feed-in-Tariff (FIT) system;
2. The Renewable Portfolio Standards (RPS);
3. The Renewable Energy Market (REM);
4. The Green Energy Option; and
5. The Net-metering for Renewable Energy.

As can be readily seen from that listing, the above EPIRA and RE goals and functions are clearly matters for executive action. They all partake of implementation of the EPIRA and the RE Act, purely executive in nature.

What the RE Act granted PowerCom are the usual oversight functions, namely, scrutiny and investigation, in order to ensure administrative efficiency in aid of legislation.

However, Senate Joint Resolution No. 9 virtually invests the PowerCom with authority to implement both laws and involve itself with administrative details, intrinsically, executive in nature.

There is absolutely no good reason nor satisfactory justification for extending the term of the PowerCom. Well, they said it has some uncompleted tasks. Maybe, one reason – and I am not trying to bring down the prestige of the PowerCom – it was unable to do in the last ten years what it was tasked to do, is that it assumed powers purely executive in nature, and therefore, it is not really established and built for that purpose. For that reason, I vote "no" to this extension.

By Senator Osmeña

Explaining his affirmative vote, Senator Osmeña asserted that a Senate resolution or even a joint resolution cannot amend the law. He noted that Senator Angara merely quoted the explanatory note to the resolution. He stated that he did not know what made Senator Angara change his mind considering that he was the sponsor of the Renewable Energy Law who made the PowerCom the oversight committee.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of Rep. Bai Sandra A. Sema of the 1st district of Maguindanao and Cotabato City, author of House Bill No. 4146.

CONSIDERATION OF HOUSE BILL NO. 4146
(*Continuation*)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of House Bill No. 4146, taking into consideration Senate Bill No. 2756, entitled

AN ACT PROVIDING FOR THE SYNCHRONIZATION OF THE ELECTIONS AND THE TERM OF OFFICE OF THE ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO (ARMM) WITH THOSE OF THE NATIONAL AND OTHER LOCAL OFFICIALS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9333, ENTITLED "AN ACT FIXING THE DATE FOR REGULAR ELECTIONS

FOR ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO, AND FOR OTHER PURPOSES."

Senator Sotto stated that the parliamentary status was still the period of interpellations.

RESERVATIONS TO INTERPELLATE

Senator Sotto manifested that Senators Defensor Santiago, Zubiri, Angara, Ejercito Estrada, Cayetano (A), Revilla, Osmeña and Escudero made reservations to interpellate on the measure.

Thereupon, the Chair recognized Senator Drilon, Sponsor of the measure, and Senator Defensor Santiago for her interpellation.

MANIFESTATION OF SENATOR DRILON

Alluding to the debates on House Bill No. 4146 during the previous session, Senator Drilon sought to correct a statement he made that "the Constitution does not require synchronization of the terms of office. What the Constitution requires is the synchronization of the elections." Saying that he wanted to correct the statement, he pointed out that in *Osmeña vs. Comelec*, decided in 1991 by the Supreme Court, the issue was the constitutionality of Republic Act No. 7056, which provided for two separate elections in 1992 as follows: (a) an election for the President, Vice-President, 24 senators and elective members of the House of Represent-atives on the second Monday of May 1992; and (b) an election of all provincial elective officials on the second Monday of November 1992. He stated that in ruling on this issue, the Supreme Court said:

> At the core of this controversy is Article XVIII, Sections 2 and 5 (*Transitory Provisions*) of the 1987 Constitution, which reads —
>
> "Sec. 2. The Senators, Members of the House of Representatives and the local officials first elected under this Constitution *shall serve until noon of June 30, 1992.*
>
> "Sec. 5. The six-year term of the incumbent President and Vice-President elected in the February 7, 1986 election is, *for purposes of synchronization of elections, hereby extended to noon of June 30, 1992.*"
>
> "It is clear from the aforementioned provisions that the terms of office of the Senators, Members of the House of Representatives, local officials, and the President and Vice-President have been synchronized to end on the same hour, date and year – noon of June 30, 1992.
>
> "It is likewise evident from the wording of the above-mentioned Sections that the term of *synchronization* is used synonymously as the phrase *holding simultaneously* since this is the precise intent in terminating their office tenure on the same *day or occasion.* This common termination date will synchronize future elections to once every three years
>
> x x x x
>
> That the election for Senators, Members of the House of Representatives and the local officials (under Sec. 2, Art. XVIII) will have to be synchronized with the election for President and Vice-President (under Sec. 5, Art. XVIII) is likewise evident from the following records of the proceedings in the Constitutional Commission"
>
> x x x x
>
> With the clear mandate of the 1987 Constitution to hold synchronized (simultaneous) national and local elections in the second Monday of May, 1992, the inevitable conclusion would be that Republic Act 7056 is clearly violative of the Constitution because it provides for the holding of a desynchronized election.

Senator Drilon stated that Section 8 of Article X of the Constitution provides that the term of elective local officials shall have a three-year term, and following the three-year term of the local government officials, the last term of office of ARMM elective officials should have ended at noon of June 30, 2010, which was the day when the synchronized terms of the office of the President, Vice-President, Senators, the Members of the House of Representatives, and the local officials should have ended as ruled by the Supreme Court in the case of *Osmeña v. Comelec.* He asserted that not only must the ARMM elections, which is indisputably a local election, be synchronized with the national election, the terms of office must also be synchronized.

Senator Drilon stressed that the Constitution must be deemed written in every statute enacted by the legislature because it is supreme over all other laws. He pointed out that RA 9054, the Organic Act of ARMM and RA 9333, provide that "The terms of office of the ARMM officials shall commence at noon of September 30 next following the day of the election." Clearly, he said, both laws provide for a desynchronized commencement and end of

term of office contrary to the Constitution and the ruling of the Supreme Court in *Osmeña v. Comelec.*

As regards whether or not Gov. Zaldy Ampatuan should continue to hold office in a hold-over capacity, Senator Drilon submitted that Governor Ampatuan cannot do so because in *Osmeña v. Comelec*, the Supreme Court ruled as void and unconstitutional a provision that would allow elected and incumbent local officials to hold over and serve until their successors shall have been duly elected and qualified. Specifically, he quoted the relevant portion of the Supreme Court ruling, to wit: "It is not competent for the legislature to extend the terms of office of officials *by providing that they shall hold over* until their successors are elected and qualified where the *Constitution has in effect or by clear implication prescribed the term* and when the Constitution fixes that day, on which the official term shall begin, there is no legislative authority to continue the office beyond that period even though the successors failed to qualify within the time."

Senator Drilon stated that since Governor Ampatuan cannot serve in a hold-over capacity as ARMM governor by virtue of the aforecited Supreme Court ruling, the President can appoint an officer-in-charge. He maintained that the vacancy is created not by the passage of House Bill No. 4146 into law but by the synchronized election and terms of office of the present occupants of the elective positions. He said that the President's power to appoint an OIC as provided for in House Bill No. 4146 and Senate Bill No. 2756 is a valid exercise of the residual power of the President and in the exercise of general supervision over ARMM to prevent a vacuum in governance in the ARMM.

MANIFESTATION OF SENATOR DEFENSOR SANTIAGO

Senator Defensor Santiago said that she would not be interpellating on the bill but would instead read a short paper on the *constitutional issues in the synchronization of national and local elections.*

The full text of Senator Defensor Santiago's statement follows:

THE PRINCIPLE OF SYNCHRONIZATION

The Constitution does not *explicitly* provide that national and local elections shall be synchronized. Instead, the Constitution under Section 5, Article XVIII (Transitory Provisions), uses the phrase "for purposes of synchronization of elections." Thus, the Constitution *implicitly* places constitutional value on synchronized elections. By constitutional value, I mean that the Constitution recognizes the significance, desirability, or utility of synchronized elections to the general public.

I am surprised that critics of the bill do not even bother to raise the threshold question of whether synchronization is a constitutional mandate. I presume that this remarkable omission signifies unquestioning acceptance of the provision that *a constitutional implication is as effective as an outright constitutional provision.*

For, as I have written in my casebook on constitutional law: Implication plays a very important part in constitutional construction, because the Constitution being general rather than detailed, it treats many essential items by implication. It has been said that implied limitations are essential to the effectiveness of every constitution. What is implied is as much a part of the instrument as what is expressed. Later cases have ruled that the intent of a constitution may be shown by implications, as well as by the words of express provisions. Implication is only another term for meaning and intention.

The Supreme Court has construed the use of the phrase "synchronization of elections" as nothing less than a constitutional mandate in the 1991 case of *Osmeña v. Comelec.* The Court ruled: "It thus becomes very evident **that the Constitution has mandated a synchronized national and local elections."** It summarized its findings thus: "With the clear mandate of the 1987 Constitution to hold synchronized (simultaneous) national and local election... R.A. No. 7056 is clearly violative of the Constitution because it provides for the holding of a desynchronized election." (199 SCRA 750 [1991]).

THE PRINCIPLE OF LOCAL AUTONOMY

The Constitution provides in Section 1, Article X: "There shall be autonomous regions in Muslim Mindanao..." And in Section 2: "The territorial and political subdivisions shall enjoy local autonomy." Thus, just like synchronized elections, local autonomy is a constitutional principle. But there is no basis for the view that these two values should be viewed as necessarily conflicting with each other, such that the existence of one should necessarily mandate the death of the other.

THE RULE OF *IN PARI MATERIA*

In pari materia is a Latin phrase meaning "on the same subject." Provisions on the same subject occupy comparable and equal positions. It is a canon of constitutional construction that constitutional provisions that are *in pari materia* should be construed together, so that inconsistencies in one provision may be resolved by looking at another provision on the same subject matter. Synchronization as well as local autonomy in the ARMM are *in pari materia*. Effect should be given to each of these constitutional principles, and neither one should be treated as superfluous. The court will avoid a construction which renders the principle of synchronization and the principle of local autonomy as conflicting with each other.

An elementary rule of construction is that, if possible, effect should be given to every part and word of a constitution, unless there is clear reason for doing otherwise. As an American court ruled recently: "All constitutional provisions enjoy equal dignity." (*National Pride at Work Inc. v. Governor of Michigan*, 481 Mich 56 [2008]). Another recent 2009 decision ruled: "Each word, phrase, clause, and sentence must be given meaning so that no part will be void, redundant, or trivial. (*Caine v. Horne*, 220 Ariz. 77 [2009]). It is a basic rule of construction that a constitutional provision should be construed to make all its parts harmonize.

The conflict between the constitutional principle of synchronization and the principle of local autonomy is more apparent than real. The conflict, if any, is not irreconcilable. There is irreconcilable conflict, if one authorizes what the other forbids, or vice versa. Where there is no irreconcilable conflict, both constitutional principles must stand, even if there is some tension between them.

Before the court declares a statute unconstitutional, the court must be convinced beyond a reasonable doubt that the legislation and the constitutional provision are incompatible. If an averted conflict or repugnancy between a law and the constitution can be reconciled, the court must do so. While construing this bill, the Supreme Court will interpret it as consistent with applicable constitutional provisions, and seek to harmonize the constitution and the statute.

THE RULE OF *EXPRESSIO UNIUS*

The Constitution, Article X, Section 17 provides: "All powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the national government." The Constitution then goes in Section 20 that provides that the organic act of the autonomous region shall provide for legislative powers over nine subjects, none of which is the synchronization of elections. This being so, such synchronization is vested in the national government through the Congress.

Expressio unius est exclusio alterius. To express or include one thing implies the exclusion of the other. When a constitutional provision serves to point out certain exceptions to some of its own general rules, the court may not say that other exceptions were intended, though not mentioned. In the grant of the power of local autonomy, and in the regulation of the mode of their exercise, there is an implied negative. This is the implication that no other than the expressly granted powers passes by the grant, and that they are to be exercised only in the prescribed mode.

If Congress were to be prohibited from legislating on synchronized elections, then what agency shall legislate? There would be a vacuum in the law, which is an absurd result. The Supreme Court itself, in the 2004 case of *Disomangcop v. Datumanong* (444 SCRA 203 [2004]) noted that when the Constitution enumerates the legislative powers of the ARMM, what is not included is excluded. The Court said categorically: "Expressly not included therein are powers over certain areas."

SUPREME COURT PROHIBITS HOLDOVER

The Constitution, Article X, Section 8 provides: "The term of office of elective local officials, ... shall be three years...."

The Supreme Court in the 1991 case of *Osmeña v. Comelec* cited American cases from both *Corpus Juris* and *American Jurisprudence* to rule against holdover, thus: "It is not competent for the legislature to extend the term of officers by providing that they should hold over until their successors are elected and qualified, where the Constitution has in effect or by clear implication prescribed the term." And again: "The legislature cannot, by an act postponing the election to fill an office the term of which is limited by the Constitution, extend the term of the incumbent beyond the period as limited by the Constitution."

Since the Supreme Court prohibits holdovers, how should ensuing vacant public offices be filled? The Supreme Court ruled that such vacancies should be filled by the President, in the 1991 case of *Menzon v. Petilla* (197 SCRA

251). In that case, the Court noted that existing laws gave to the President the power to make temporary appointments in certain appointive offices, pursuant to his power of general supervision over local governments. The Court ruled: "However, in the absence of any contrary provision in the Local Government Code and in the interest of public service, we see no cogent reason why the power of presidential appointment should not be exercised."

PRESUMPTION OF CONSTITUTIONALITY

If we pass this bill and it is subsequently questioned in the Supreme Court, this bill will enjoy the presumption of constitutionality. In the 1991 case of *Dimaporo v. Mitra* (202 SCRA 779), the Supreme Court ruled: "This Court has enunciated the presumption in favor of constitutionality of legislative enactment. To justify the nullification of a law, *there must be a clear and unequivocal breach of the Constitution, not a doubtful and argumentative implication. A doubt, even if well founded, does not suffice.*"

The burden of proof lies on the critics to prove that this bill is unconstitutional. The basic principle of constitutional adjudication is the presumption of constitutionality — the strong presumption that all regularly enacted statutes are constitutional. Consequently, the Supreme Court will favor validating the legislation rather than invalidating it. The Court will favor that interpretation of legislation that gives it the greater chance of surviving the test of constitutionality.

A party who alleges the unconstitutionality of a statute normally has the burden of substantiating his or her claim. This is a heavy burden. The quantum of proof is "clear, palpable, or manifest" violation of the Constitution. The critics should show proof of unconstitutionality beyond reasonable doubt.

THE POWER OF CONGRESSIONAL CONSTRUCTION

In the first instance, it is Congress which has power to construe the Constitution. In fact, in the 1946 of *Vera v. Avelino* (77 Phil. 192), the Supreme Court ruled: "The proceedings of the convention are less conclusive of the power construction of the fundamental law than are legislative proceedings of the proper construction of a statute, since in the latter case, it is the intent of the legislators that courts seek, while in the former, courts are endeavoring to arrive at the intent of the people through the discussions and deliberations of their representatives."

The passage of time has led to the long standing rule that a practical construction by Congress of a provision of the Constitution is entitled to great weight and ought not to be lightly disregarded. Congress has passed seven laws, beginning with R.A. No. 7647 and ending so far with R.A. No. 9333, changing the date of ARMM elections. These seven laws constitute a long-continued practical construction by Congress of power under the provisions of the Constitution. Thus, these seven laws should be taken as fixing the meaning of the constitutional principles of synchronization and of local autonomy taken together.

CONCLUSION

The principle of synchronization of national and local elections should be harmonized with the principle of local autonomy. Congress has the power to synchronize elections, while the powers of ARMM are limited to those enumerated in Section 20, Article X of the Constitution. In view of repeated Supreme Court rulings that holdovers are prohibited, any ensuing vacancy in the ARMM should be filled by the President, not of the power of control or of the power of general supervision, but in the exercise of the executive power of appointment.

In closing, Senator Defensor Santiago explained that her statement was merely an opinion on constitutional law, and that any opinion cannot be considered authoritative unless it has been confirmed by the Supreme Court.

INTERPELLATION OF SENATOR ZUBIRI

Replying to Senator Zubiri's inquiry on the definition of "autonomy," Senator Drilon stated that the August 8, 2011 ARMM elections is being proposed to be postponed because it is a desynchronized election and as such, it is unconstitutional based on the decision of the Supreme Court in *Osmeña vs. Comelec* (G.R. No. 100318, July 30, 1991).

Senator Zubiri said that the *Black's Law Dictionary* defines "autonomy" as the quality or state of being self-governing, or the right of self-government. Relative thereto, he asked on the rationale behind the decision to grant autonomy to the ARMM under the 1987 Constitution. Senator Drilon replied that he had yet to review the constitutional convention proceedings at the time. However, he said that he had reviewed in detail the validity of holding the ARMM elections on August 8, 2011.

For his part, Senator Zubiri quoted the following provisions of Article X of the 1987 Constitution

which expressed the framers' intent for a meaningful and authentic regional autonomy:

> Section 1. The territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities, and barangays. There shall be autonomous regions in Muslim Mindanao and the Cordilleras as hereinafter provided.
>
> Section 15. There shall be created autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.

Senator Zubiri also quoted from the sponsorship speech of Commissioner Ponciano Benagen during the deliberation of the 1986 Constitutional Commission:

> History tells us, without meaning this to be some kind of blackmail, that the Bangsa Moro and the Cordillera people can wield the willpower and determination like fierce knives and sharp spears in demolishing any obstacle in their quest for justice, peace and self-determination.
>
> Listen to the fiery words of a Muslim: "If we act in a civilized way which is the way of Islam, they do not listen to us. *Pero kung huramentado o jihad, iyon ang pakikinggan nila.*
>
> Honorable Commissioners, we wish to impress upon you the gravity of the decision to be made by every single one of us in this Commission. We have the overwhelming support of the Bangsa Moro and the Cordillera people to grant them regional autonomy in the new Constitution. By this we mean meaningful and authentic regional autonomy. We propose that we have a separate article on the autonomous regions for the Bangsa Moro and Cordillera people clearly spelled out in this Constitution, instead of prolonging the agony of their vigil and their struggle. This, too, is a plea for national peace. Let us not pass the buck to the Congress to decide on this.

In addition, Senator Zubiri quoted excerpts from Mamintal Tamano's book, *Autonomy To Keep This Nation Intact*:

> Substantial and meaningful autonomy is the kind of local self-government which allows the people of the region or area the power to determine what is best for their growth and development without undue interference or dictation from central government.

Such citations, he noted, clearly show that the 1987 Constitution grants absolute political autonomy to the ARMM and guarantees its rights to self-government, free from any unwanted interference from the central government. However, Senator Drilon stated that autonomy, as well as synchronization of elections, are constitutional principles. He adverted to a part of Senator Defensor-Santiago's explanation which would address the concern raised by Senator Zubiri:

> Thus, just like synchronized elections, local autonomy is a constitutional principle. But there is no basis for the view that these two values should be viewed as necessarily conflicting with each other, such that the existence of one should necessarily mandate the death of the other.
>
> *In pari materia* is a Latin phrase meaning "on the same subject." Provisions on the same subject occupy comparable and equal positions. It is a canon of constitutional construction that constitutional provisions that are *in pari materia* should be construed together, so that inconsistencies in one provision may be resolved by looking at another provision on the same subject. Synchronization, as well as local autonomy in the ARMM, are *in pari materia*. Effect should be given to each of these two constitutional principles, and neither one should be treated as superfluous. The court will avoid a construction which renders the principle of synchronization and the principle of local autonomy as conflicting with each other.
>
> The conflict between the constitutional principle of synchronization and the principle of local autonomy is more apparent than real. The conflict, if any, is not irreconcilable. There is irreconcilable conflict, only if one authorizes what the other forbids, or vice versa. Where there is no irreconcilable conflict, both constitutional principles must stand, even if there is some tension between them.

Senator Zubiri stated that the ARMM was granted political autonomy, and he cited the case of *Disomangcop v. Secretary of DPWH and the Secretary of DBM* (G.R. No. 149848, November 25, 2004) to explain the concept of decentralization:

A necessary prerequisite of autonomy is decentralization.

Decentralization is a decision by the central government authorizing its subordinates, whether geographically or functionally defined, to exercise authority in certain areas. It involves decision-making by sub-national units. It is typically a delegated power, wherein a larger government chooses to delegate certain authority to more local governments.

Decentralization comes in two forms—deconcentration and devolution. Deconcentration is administrative in nature; it involves the transfer of functions or the delegation of authority and responsibility from the national office to the regional and local offices. This mode of decentralization is also referred to as administrative decentralization.

Devolution, on the other hand, connotes political decentralization, or the transfer of powers, responsibilities, and resources for the performance of certain functions from the central government to local government units. This is a more liberal form of decentralization since there is an actual transfer of powers and responsibilities. It aims to grant greater autonomy to local government units in cognizance of their right to self-government, to make them self-reliant, and to improve their administrative and technical capabilities.

Senator Zubiri also read portions from the Supreme Court's decision in *Cordillera Broad Coalition v. COA* (G.R. No. 79956, January 29, 1990) to further support his claim that the creation of autonomous regions contemplates the grant of political autonomy which is greater than the administrative autonomy granted to local government units:

"(T)he constitutional guarantee of local autonomy in the Constitution refers to the administrative autonomy of local government units or, cast in more technical language, the decentralization of government authority. XXX On the other hand, the creation of autonomous regions in Muslim Mindanao and the Cordilleras, which is peculiar to the 1987 Constitution contemplates the grant of political autonomy and not just administrative autonomy these regions."

Relative thereto, Senator Zubiri sought clarification as to whether the President only exercises general power of supervision over the ARMM, rather than the power of control, especially on appointments to particular elected positions.

Senator Drilon stated that the President has no power of control over local government units, and that it is the Constitution that provides for general supervision in defining the power of the President.

Adverting to the case of *Mondano vs. Silvosa* (G.R. No. L-7708, May 30, 1955), Senator Zubiri pointed out that the President's power of control is defined as the power to alter, modify, nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for that of the latter. He added that the power of control is exercised by the President over all the executive departments, bureaus and offices.

As explained in *Drilon vs. Lim* (G.R. No. 112497, August 4, 1994), Senator Zubiri said that the power of general supervision insures that laws are faithfully executed by inferiors. He also clarified that even though the power of supervision does not include the power of control, the power of control necessarily includes the power of supervision. As such, he stated that the President does not dictate what the law should be, but merely insures that the ordinance is in accordance with the law.

As to Section 10, Article VII of the 1935 Constitution which provided for the authority of the President to exercise general supervision over all local governments as may be provided by law, Senator Zubiri cited Fr. Bernas' commentary that the President only possesses supervisory powers as may be mandated by the statute. However, he noted that in the 1987 Constitution, the phrase "as may be provided by law" was deleted, and its deletion was explained in *Ganzon vs. Court of Appeals* (G.R. No. 93252, August 5, 1991): "(T)he omission of "as may be provided by law" signifies nothing more than to underscore local governments' autonomy from Congress and to break Congress' 'control' over local government affairs." He added that the Constitutional Commission deliberately dropped the phrase "as may be provided for by law" in order to deny Congress the authority to expand the nature of the power of the President over autonomous regions.

Senator Zubiri also deemed the provision as something that curtails the power of Congress over autonomous regions, as evidenced by a question raised during the deliberations of the 1986 Constitutional Commission, to wit: "Is not the appointment by the President of officers-in-charge an exercise of a power completely beyond that of general supervision?"

Senator Drilon stressed that the vacancy is created because the August 8, 2011 election is a desynchronized election and, therefore, unconstitutional as ruled by the Supreme Court in *Osmeña vs. Comelec.* Being unconstitutional, he said, no public funds can be spent for the holding of the election, and there being no election, the term of office of the incumbent ARMM officers also expires. He reiterated that under the Constitution, there cannot be holdover positions, as cited in *Osmeña vs. Comelec* and *Menzon vs. Petilla.*

Given the fact that the term of office of ARMM officials is desynchronized with that of national and local officials, and in view of the Supreme Court ruling that the terms of office of the senators, the Members of the House of Representatives, the President, the Vice President, and the local officials first elected under the 1987 Constitution end at noon of June 30, 1992, Senator Drilon said that such desynchronization creates a vacancy precisely not by the proposed law but by the unconstitutional nature of the present term of office. Thus, he said that the residual power of the President to appoint can be invoked in order to justify the appointment of officers-in-charge.

To the observation that the proposed measure renders the principle of autonomy inutile, Senator Drilon replied that autonomy could still be given full meaning. He said that he would like to think that Senator Zubiri never thought that autonomy would be affected when as congressman, he voted "Yes" six times on the postponement or resetting of ARMM elections—on House Bill No. 6400, resetting the election from March 8, 1999 to September 30, 1999; Republic Act No. 8753, resetting the election from February 13, 1999 to September 11, 2000; on Republic Act No. 8953, resetting the election from September 11, 2000 to May 14, 2001; on Republic Act No. 9054, resetting the election from May 14, 2001 to September 10, 2001; and on Republic Act No. 9140, resetting the election from September 10, 2001 to November 26, 2001. He expressed the belief that by voting in the affirmative on the measures, Senator Zubiri was of the view that the synchronization of elections was not inconsistent with local autonomy.

Stating that his affirmative vote on the measures had nothing to do with postponement, Senator Zubiri asked on the difference with having the elections pushed through in August and thereafter proposing a measure for synchronization in 2013. Senator Drilon opined that the precedent is the Supreme Court ruling on *Osmeña vs. Comelec* that the synchronization of election should have been done not later than 1992, thereupon declaring Republic Act No. 7056 as unconstitutional.

Senator Zubiri noted that based on record, Senator Drilon has taken a position contrary to the apparent implication of Senate Bill No. 2756 when he said that "since it is unconstitutional, we cannot hold the election and therefore there is a vacancy."

Asked whether the Supreme Court has declared Republic Act No. 9333 as unconstitutional, Senator Drilon replied that a case has never been brought to the Supreme Court, only that its ruling in *Osmeña vs. Comelec* is foursquare and controlling on the present situation. He noted that in the same manner that Republic Act No. 7056 called for local election separate from the national election, the present law calls for an ARMM elections separate from the national and local election.

Senator Zubiri feared that Senate may be unreasonably usurping the exclusive constitutional authority of the Judiciary to declare existing laws as unconstitutional, as he cited the powers of the Judiciary in Article VIII, Sections 1 and 5.2(a) of Article VIII of the Constitution, to wit:

> Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law; and
>
> Section 5. The Supreme Court shall have the following powers:
>
> x x x x
>
> (2) Review, revise, reverse, modify, or affirm on appeal or *certiorari*, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:
>
> (a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.

In reply, Senator Drilon adverted to the earlier treatise of Senator Defensor Santiago, viz:

> In the first instance, it is Congress which has power to construe the Constitution. In fact, in the 1946 case of *Vera v. Avelino* (77 Phil. 192), the Supreme Court ruled: "The proceedings of

> the convention are less conclusive of the proper construction of the fundamental law than are legislative proceedings of the proper construction of a statute, since in the latter case, it is the intent of the legislators that courts seek, while in the former, courts are endeavoring to arrive at the intent of the people through the discussions and deliberations of their representatives.

Senator Drilon stated that he would rather rely on the expertise of constitutionalist Senator Defensor Santiago to support the proposition that Congress can indeed pass upon the constitutionality of a particular measure. He maintained that there is nothing that prohibits the Chamber, in the exercise of its plenary power, from passing judgment on the constitutionality of a particular law. He added that the argument that the measure cannot be passed because it is unconstitutional because it amends the Organic Act is a judgment on the proposed measure which in itself debunks the proposition that Congress cannot pass upon the constitutionality of any measure. He said that every time the Chamber debates, it is passing upon the constitutionality of a measure, for instance, when Senator Ejercito Estrada proposed the bill on the night work prohibition of women, Senator Defensor Santiago stood up and opposed it on the ground that it is unconstitutional. This, he said, is proof that the interpretation of the Constitution is not the exclusive domain of the Supreme Court.

Senator Zubiri pointed out, however, that the Constitution has vested the Supreme Court with the authority to declare a law as unconstitutional. Given the fact that the Supreme Court is considered as the final decision-maker and arbiter of the constitutionality of cases, he believed that the statement that Congress could also declare an existing law as unconstitutional is debatable. For instance, he admitted that Congress committed a mistake—as eventually ruled by the Supreme Court—when it passed the measure creating a congressional district in Malolos without meeting the requirement on population.

Asked by Senator Drilon whether such argument meant that Congress cannot express its judgment on the constitutionality of the measure, Senator Zubiri clarified that he just wanted to ensure that the Senate does not commit further mistakes.

Asked whether he was not convinced that Republic Act No. 9333 enjoys the presumption of constitutionality, Senator Drilon replied that while the measure may enjoy such presumption, there is nothing that prevents Congress from repealing the law if it views it as unconstitutional.

At this juncture, Senator Zubiri cited the following Supreme Court rulings to elucidate his point:

- In *Lim v. Daquing* in January 27, 1995, that "all laws are presumed valid and constitutional until or otherwise ruled by this court."
- In *Alvarez v. Guingona* in 1996, that "Every law has in its favor the presumption of constitutionality. It is a well-entrenched jurisprudential rule that on the side of every law lies the presumption of constitutionality."
- In *National Housing Authority v. Reyes* on June 29, 1983, that "one of the basic postulates in constitutional law is the presumption of validity of a legislative or executive act."
- In *Angara v. Electoral Commission* in 1936, by Justice Laurel on executive review, that "it is not for the Judiciary to pass upon questions of wisdom, justice or expediency of legislation. More than that, the courts accord the presumption of constitutionality to legislative enactments not only because the Legislature is presumed to abide by the Constitution but also because the Judiciary, in its determination of actual cases and controversies, must reflect the wisdom and justice of the people as expressed to their representative in Executive and Legislative departments of governments."

Senator Drilon said that while indeed there is always a presumption of constitutionality in all such cases, it does not prevent the Chamber as a political body from passing judgment also on a matter that it believes is not consistent with the Constitution.

Upon query, Senator Drilon said that the bill seeks to repeal RA 9333 and not merely amend it.

Citing Senator Drilon's statement that the constitutionality of RA 9333 could be presumed since nobody has questioned it in the Supreme Court, Senator Zubiri asked whether the ARMM elections could be held in 2011. Senator Drilon replied in the negative, stating that RA 9333 provides for desyn-

chronized elections and a desynchronized term of office which are inconsistent with the Constitution as interpreted by the Supreme Court in *Osmeña vs Comelec.*

As regards his position that the cancellation of the ARMM elections does not constitute an amendment to the Organic Act, Senator Drilon pointed out that it was RA 9333 which provided for the date of the election and not the Organic Act. He noted that none of the six laws that reset the ARMM elections amended the Organic Act but they amended statutes that set the ARMM elections, thus, there was no need to go through the process of amendment as provided for in RA 9054.

On whether he deemed the laws that he voted for as unconstitutional, Senator Drilon answered in the affirmative, stating that precisely mistakes were now being sought to be corrected. He added that there was nothing wrong if the Body agreed to his proposition and if the Supreme Court were to subsequently rule that the repeal of RA 9333 was unconstitutional, then it would merely come back to life. He clarified that it was the Supreme Court that ruled in *Osmeña vs Comelec* that a desynchronized election is unconstitutional. He explained that in the legal profession, practitioners rely on precedents or jurisprudence since there is no specific rule for every occasion. However, he underscored that the jurisprudence on the matter at hand is clear and controlling: desynchronized term of office and desynchronized election are contrary to the Constitution.

Noting that Senator Drilon has likewise implied that the Transitory Provision of the Organic Act does not form part thereof, Senator Zubiri asked if it stands to reason that the supposed mandate to synchronize local and national elections is not also part of the 1987 Constitution since it is only provided for in the Transitory Provisions, so that, in effect, RA 9333 is not unconstitutional. Senator Drilon replied that the Supreme Court itself has ruled that synchronization, whether of the term of office or of the elections, is mandated by the Constitution, thus, it is immaterial whether it is provided for in the main provisions or in the transitory provisions.

SUSPENSION OF SESSION

Upon motion of Senator Zubiri, the session was suspended.

It was 4:56 p.m.

RESUMPTION OF SESSION

At 4:57 p.m., the session was resumed.

Senator Zubiri observed that Senator Drilon has used the legal opinion of Senator Defensor Santiago as contained in her position paper, to wit:

> The Constitution does not explicitly provide that national and local elections shall be synchronized. Instead, the Constitution under Article XVIII, Transitory Provisions, Section 5, uses the phrase "for purposes of synchronization of elections." Thus, the Constitution implicitly places constitutional value on synchronized elections. By constitutional value, I mean that the Constitution recognizes the significance, desirability, or utility of synchronized elections to the general public.

In reply, Senator Drilon also quoted the following excerpts from the position paper of Senator Defensor Santiago:

> The Supreme Court has construed the use of the phrase "synchronization of elections" as nothing less than a constitutional mandate in the 1991 case of *Osmeña v. Comelec.* The Court ruled: "It thus becomes very evident that the Constitution has mandated a synchronized national and local election." It summarized its findings thus: "With the clear mandate of the 1987 Constitution to hold synchronized (simultaneous) national and local elections, Republic Act No. 7056 is clearly violative of the Constitution because it provides for the holding of a desynchronized election.

Additionally, Senator Drilon explained that for those in the legal profession, the law is what the Supreme Court says, and since the Supreme Court has declared that the Constitution mandated synchronized national and local elections, then that ruling is the law.

As regards the contention that ARMM is not covered by the Transitory Provisions of the Constitution because the ARMM has not yet been created at the time of its ratification, Senator Drilon stated that the ARMM was created in 1989 but the case of *Osmeña vs Comelec* was decided in 1991.

Senator Zubiri maintained that the ARMM has not yet been created when the synchronized elections were mandated in the Transitory Provisions of the

Constitution. He also pointed out that since Section 18 of Article X of the Constitution mandated Congress to enact an organic law to create the ARMM "which shall be effective when approved by majority of votes cast by the constituent units in a plebiscite," the ARMM is therefore not covered by the Transitory Provisions on synchronized elections.

Senator Drilon stressed that the Supreme Court has ruled that synchronization is mandated by the Constitution that provides for only two kinds of elections – national and local – and since the ARMM election is admittedly not a national election, then it is a local election. He stated that the Supreme Court ruling declaring a desynchronized local and national election as unconstitutional is the *ratio decidendi* or the controlling doctrine on the matter.

But Senator Zubiri argued that the ruling of the Supreme Court was amended by RA 9333 that was enacted subsequent thereto, and said law, he maintained, enjoys the presumption of constitutionality unless declared otherwise by the Supreme Court. He reiterated that ARMM was not covered by Section 2 of RA 7166, because as provided thereof, "xxx there shall be an election for President, Vice-President, twenty-four (24) Senators, all elective Members of the House of Representatives, and all elective provincial, city and municipal officials on the second Monday of May." He opined that the ARMM was excluded because it had yet to be officially created pursuant to the 1987 Constitution. He argued further that the ARMM elections cannot be synchronized since the first elections for Congress and local officials under the 1987 Constitution was held in May 1987, with terms ending in 1992, while the first ARMM poll was held on February 12, 1990, pursuant to the Organic Act.

Senator Drilon emphasized that the Constitution is supreme over the Organic Act and the Organic Act, much less RA 9333, cannot stipulate on matters contrary to the Constitution. He stated that the Constitution must be read as part of all enactments of Congress, be it an ordinary statute or an organic act.

As this juncture, Senator Zubiri recalled the legislative history of the resetting of the date of elections in the ARMM, to wit:

- RA 6734, enacted on August 1, 1989, set the date of the first regular election to be held not later than sixty days after its ratification;
- RA 7647, passed on March 5, 1993, set the date of regular elections to be held on the second Monday after the Muslim month of Ramadan immediately preceding the end of term of office except for regular elections to be held on the March 25, 1993;
- RA 8176, enacted on December 29, 1995, set the date of elections and amended RA 7647 for that purpose, on the second Monday of March 1993 and every three years thereafter except for 1996 which shall be held on September 9, 1996;
- RA 8746, passed on March 4, 1999, set the date of elections and amended RA No. 7647 for that purpose, on the second Monday of September 1999 and every three years thereafter;
- RA 8753, passed on September 8, 1999, reset the regular elections provided under RA 8746 to the second Monday of September 2000 and every three years thereafter;
- RA 8953, enacted in September 2000, reset the regular election from September 2000 to coincide with the general elections on the second Monday of May 2001 and every three years thereafter;
- RA 9012, enacted in February 2001, reset the regular election to the second Monday of May 2001;
- RA 9054 (Expanded ARMM Organic Act), enacted on March 31, 2001, amended RA 6734 and reset the regular election on the second Monday of September 2001; this was passed by a vote of two-thirds of the members of each House voting separately and a plebiscite was held to approve it;
- RA 9140, passed on June 22, 2001, fixed the date of plebiscite not later than August 15, 2001; and,
- RA 9333, passed on September 21, 2004, fixed the date of regular election on the second Monday of August 2005 and every three years thereafter.

Senator Zubiri recalled that in the history of the ARMM, there was only one instance when elections in ARMM were reset to coincide with the national and local elections and this was done through RA 8953, enacted on September 1, 2000, but elections were not held and six months later, Congress passed RA 9012 which reset the elections in the ARMM to the second Monday of September 2001.

Asked if House Bill No. 4146 does not seek to change a single word of the Organic Act but that instead, it seeks to amend RA 9333, Senator Drilon replied that it does not, in the same way that the six laws cited simply amended existing statutes.

However, Senator Zubiri believed that RA 8953 and RA 9054 were actually amendments to the Organic Act and that both, in fact, were ratified in plebiscites. He pointed out that RA 9054 partook of an amendment to the Organic Act because it provided for the inclusion in the ARMM of Basilan and Marawi. Senator Drilon clarified that an amendment which expands the ARMM law must be submitted to a plebiscite but not the laws resetting the ARMM elections.

To the assertion that all amendatory acts, including RA 9333, became integral parts of the Organic Act, Senator Drilon stated that there is no principle that supports the assertion that a law can be integrated into another law because the instant bill merely proposes the repeal of RA 9333. He said that even assuming that RA 9333 became an integral part of the Organic Act, the laws resetting the ARMM elections did not.

Senator Zubiri contended that it is a basic rule in statutory construction that a statute and its amendments should be read and taken together as a whole. He asserted that after the ratification of the 1987 Constitution, Congress never granted the President the power to appoint officials to elective positions.

Asked if the officials of the ARMM are elective officials under RA 9054, Senator Drilon agreed, but he pointed out that their term should be synchronized with the terms of the President, the Vice President, the senators and the congressmen. He said that since the term is not synchronized, as of a certain period, the elective positions would become vacant and since the Organic Act did not provide for a process of selecting successors in case of a vacancy created by the unconstitutionality of the desynchronized election and since a holdover provision is unconstitutional as well, then the President, invoking his residual powers, can fill up the vacancy with an OIC.

Senator Zubiri reasoned that the vacancy would be created by the enactment into law of House Bill No. 4146 canceling the elections. For his part, Senator Drilon maintained that the vacancy would be created due to the unconstitutionality of RA 9333.

To the observation that RA 9333 has not been declared unconstitutional, Senator Drilon believed that the Senate can pass judgment on its unconstitutionality since the Supreme Court had ruled that a desynchronized election and desynchronized terms of office are unconstitutional.

Senator Zubiri noted that as posited by Senator Drilon, without the decision of the Supreme Court declaring RA 9333 unconstitutional, the problem could be solved by enacting into law House Bill No. 4146 canceling the elections in the ARMM and allowing the President to appoint OICs to all the elective positions regardless of the transitory provision in the law that in case of vacancies, the next in line shall assume office. He maintained that in cases where the vacancy occurred due to the death or the resignation of a member of Congress, it is filled up through a special election, and not by the President.

Senator Drilon disagreed, pointing out that the vacancies adverted to were created either by an act of God or by an act of man; on the other hand, the vacancy referred to in the bill would be created by the unconstitutionality of desynchronized elections, thus, a vice governor would be in the same situation as that of a governor since he/she was also elected in the same desynchronized elections and has a desynchronized term of office which, as ruled by the Supreme Court in *Osmeña vs. Comelec*, were unconstitutional.

Senator Zubiri argued that unless RA 9333 was declared unconstitutional by the Supreme Court, it remains constitutional. Senator Drilon reiterated that the Senate cannot be prevented from passing judgment that a particular law is unconstitutional and therefore, Congress can repeal it. He nevertheless stated that the Supreme Court can later on review the act of Congress.

At this point, Senator Zubiri adverted to two provisions of the Organic Act, to wit:

Article VI. Sec. 2. *Election of Regional Assembly.* The Regional Assembly shall be composed of members elected by popular vote, with three (3) members elected from each of the legislative district.

Article VII. Sec. 4. *Election of Regional Governor and Regional Vice Governor.* The Regional Governor and the Regional Vice Governor shall be elected as a team, by the qualified voters of the autonomous region. A vote for a candidate for Regional Governor shall be counted as a vote for his teammate for Regional Governor. A vote for a Regional Vice Governor shall be counted as a vote for his teammate for Regional Governor. For purposes of their election, the candidates for Regional Governor and Regional Vice Governor shall belong to the same political party or coalition of parties. The Commission on Elections shall promulgate necessary rule or rules to give effect to this provision of law.

In this regard, Senator Zubiri asked if Section 4 of House Bill No. 4146 that empowers the President to appoint OICs to vacant elective positions that would be created by the synchronization of the regular elections of ARMM in 2013 would not violate the constitutional mandate that the ARMM shall have elective executive and legislative officials. Senator Drilon replied that since the Supreme Court ruled in *Osmeña vs. Comelec* that desynchronized elections was unconstitutional, the elected officials of ARMM would have to be elected in synchronized elections in 2013.

But Senator Zubiri maintained that the bill would violate Article X of the Constitution which mandated the creation of the ARMM because it would authorize the President to appoint OICs to vacant elective positions in the region. In response, Senator Drilon stated that the present constitutional framework gives the President the residual power to appoint which is precisely being invoked in the bill to fill up the vacancies that would be created as a result of synchronizing the ARMM elections with the local and national elections. He stated that the residual power of the President is a principle that emanates from the power of the Executive to appoint and which was recognized by the Supreme Court in the case of *Menzon v. Petilla.*

To the contention that the President does not need to appoint officials since the Organic Act is the guide for the election of leaders in the ARMM, Senator Drilon explained that it is a necessary action to prevent the leadership vacuum that would occur since the ARMM elections cannot be held in August 2011.

Senator Zubiri expressed hope that Senator Drilon would respect his position on the matter particularly as Mindanaoans are opposed to having the President of any administration appoint an elective official to govern their region. He said that he would have taken the same position regarding the bill if the situation had taken place during the previous administration, in the same way that he opposed the imposition of martial law in certain areas in Mindanao even though his decision upset the Arroyo administration particularly as he was the majority leader at the time.

At this juncture, Senator Sotto asked whether the bill aims to give the President the power to appoint an officer-in-charge instead of a governor. Senator Drilon replied that the bill will recognize the President's power to appoint an OIC who will discharge the functions of the office of the governor of the area.

For his part, Senator Zubiri pointed out that the Constitution and the Organic Act require that members sitting in the executive and legislative bodies of the ARMM should be elected, but the bill, he noted, frustrates the right of the people to elect their own officials. He recalled that during previous hearings on the issue, representatives from the Executive department failed to explain the selection process that would govern the appointment of OICs, and that even Mindanao residents who attended the last committee hearing in Marawi City were against the idea of having appointed leaders in their area, seeing it as an insult on those who died fighting for the establishment of the ARMM through the Organic Act. He expressed concern over the possible abuse of power that may occur if the President is granted a blanket authority to appoint anyone to such positions.

In reply, Senator Drilon explained that when the President exercises his power to appoint, he is exercising a political power that is vested in him by the Constitution, and under the present system of government, the President is accountable to the public for the performance of his appointees. He recalled that even Senator Marcos had pointed out that including a provision setting the qualifications for the candidacy of the OIC is not provided by law. He stressed that imposing additional qualifications

apart from those set by the Organic Act would run counter to the law itself.

As regards concerns that the measure would create a vacancy in the governance structure of the ARMM, Senator Drilon disagreed, as he pointed out that the vacancy is due to the unconstitutionality of RA 9333 that provided for a desynchronized term of office. He stated that even though the Supreme Court has not declared RA 9333 to be unconstitutional, the jurisprudence and precedent set in *Osmeña v. Comelec* say otherwise.

Senator Zubiri noted that under the bill, the President is given a very broad option in selecting ARMM OICs because it sets no stringent qualifications, for instance, candidate's residency requirement and other criteria. Moreover, he pointed out, the fact that the measure does not prevent appointees from eventually running for elective positions in the 2013 elections would give them an advantage over their opponents.

Recalling the outcome of 2007 elections, Senator Drilon said that under the present system of government, the incumbent administration would always have the advantage. Again, he clarified that the measure does not provide the President with the power to appoint; rather, it recognizes the residual power of the President to appoint OICs since RA 9333 provides for a desynchronized term of office and a desynchronized election which the Supreme Court has declared unconstitutional.

Seeing no compelling reason to justify postponing elections in the ARMM, Senator Zubiri underscored the belief that the President's exercise of his power to appoint would violate the people's right to suffrage. He stressed that holding the ARMM elections on August 8, 2011 would be an opportunity to finally change the leadership in the region so that it would no longer be in the hands of political warlords. He reiterated the belief that the appointment of OICs is a violation of the Organic Act. He stressed the need to adhere to Article XVII, Section 1 of Republic Act No. 9504 which states that "the Organic Act may be re-amended or revised by the Congress of the Philippines upon a vote of two-thirds of the House of Representatives and the Senate voting separately," and Article XVII, Section 3 which provides that "any amendment to the 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 60 days or later than 90 days after the approval of such amendment and revision."

Should the bill be passed, Senator Zubiri asked whether the administration—which has the numbers to influence the vote of the House of Representatives and the Senate—might propose the amendment of another law to suit its purposes. Senator Drilon explained that the President cannot simply postpone synchronized elections because the timetable, as well as the fact that elected officials are prohibited from serving beyond their three-year term, is provided by the Constitution.

Senator Zubiri recalled that Senator Drilon had expressed the urgent and undeniable need to "clean house with the ARMM" amid problems like poverty and violence in the region. Even as he conceded that these situations are a cause for concern, he noted that they are not unique to the ARMM considering that even the provinces of Abra, Masbate, Samar and Leyte have all had a history of electoral violence. He believed that instead of canceling the elections in these areas or appointing caretakers that have no mandate from the people, other reforms — such the deployment of additional peacekeeping personnel – could be implemented to maintain peace and order in the area. In fact, he noted that after the Maguindanao massacre, the ARMM has seen less violence compared to previous years due to the presence of more soldiers patrolling these areas. He asked whether Senator Drilon agreed with the observation that incidence of violence in the ARMM has declined in the past five months.

Senator Drilon disagreed to the proposition by some Cabinet members that the postponement of the elections in ARMM was meant to cleanse the voters' list or to institute reforms in the ARMM as he maintained that the basis for resetting the elections is the unconstitutionality of RA 9333, which provided for desynchronized election and desynchronized term of office. He underscored that government should adhere to the Constitution, and he asserted that he was not bound by the opinions of the Cabinet secretaries.

As regards the issue of poverty, Senator Zubiri recalled Senator Drilon saying in his speech, "the need to clean house within ARMM in order to address, among others, rising poverty in the region."

Asked if he was aware of poverty incidence in ARMM, Senator Drilon answered in the affirmative, but he pointed out that poverty was not the reason for postponing or canceling the election on August 8, 2011, although he acknowledged that it could be made as one of the grounds or principles for executive action. He underscored, however, that the main point is compliance with the Constitution.

SUSPENSION OF SESSION

Upon motion of Senator Drilon, the session was suspended.

It was 5:33 p.m.

RESUMPTION OF SESSION

At 5:54 p.m., the session was resumed.

Upon resumption, Senator Zubiri stated that issues on corruption and violence were raised by several NGOs as among the reasons for the postponement of the election. Citing a report of the National Statistics Coordinating Board (NSCB), he said that only two provinces from ARMM, namely, Tawi-Tawi, which was second, and Maguindanao, which was fourth, were on the list of the top 10 poorest provinces in 2006, while the rest were Zamboanga del Norte, Agusan del Sur, Negros Oriental, Bohol, Northern Samar, Masbate, Surigao del Norte and Romblon. In 2009, he noted that only Maguindanao was in the NSCB list at number 5, while Maguindanao was no longer in the list because of good governance.

Senator Zubiri stated that as a lawmaker from Mindanao, it is his duty to voice his opposition or objection to any proposal by any administration in power to appoint OICs to vacant elective positions created by the cancellation of the elections in ARMM or elsewhere. He asked whether members of Congress who were now advocating for the postponement of the ARMM elections would join the opposition if such proposal was introduced by the previous Administration. Even as he lauded the Cory Aquino Administration for giving life to the autonomy of Muslim Mindanao, he said that the bill, on the other hand, is giving the President a blank check to appoint anyone, who might not have any qualification, to the vacant elective positions apparently to be created by the bill. He described the proposal as dangerous even as he stressed that the people should be given the right to make choices. He recalled the statement of a Cabinet member that the best way to come up with a consensus is to call for a meeting of all the leaders, but he lamented that the present Administration has been notorious for not calling any meetings on the issue of the postponement of elections in ARMM nor consulting with legislators, especially those affected by the issue. He said that to give any administration the chance to suppress the right to suffrage of the people of Muslim Mindanao even with the condition that any OIC would not be eligible to run in 2013 for the position to which he was appointed because he/she has undue advantage, is asking too much. He appealed to the Senate, being the last bastion of democracy, not to trample on the constitutional rights to suffrage of the people of the ARMM.

Asked if he would have sponsored the same measure under the Arroyo Administration, Senator Drilon answered in the affirmative, citing constitutional grounds. He recalled that he was Senate President when RA 9333 was passed but at that time, he said, the issue on its constitutionality was not raised. Had it been raised, he would have taken the same position, he stated.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 6:03 p.m.

RESUMPTION OF SESSION

At 6:18 p.m., the session was resumed.

INTERPELLATION OF SENATOR ANGARA

At the outset, Senator Angara believed that discussions on the ARMM elections are crucial because they are not simply a question of election postponement but a question of constitutionality. He stated that the whole case for postponing the ARMM elections rests on a single issue of unconstitutionality as August 8, 2011 is a desynchronized date.

Relative thereto, asked by Senator Angara whether the August 8 election is a desynchronized election and the terms of office is a desynchronized term of office, Senator Drilon replied in the affirmative.

Senator Angara noted that the proposition also rests on other assumptions such as the constitutional

mandate for synchronization and that the elections for the ARMM are part of the synchronization policy and program supposedly initiated under the Constitution. However, he also noted that the word "synchronization" was mentioned only once in the Transitory Provisions of the 1987 Constitution which mandated that the term of the President and Vice-President (Cory Aquino and Salvador Laurel, respectively) shall, for the sake of synchronizing the national and local elections, be extended to June 30, 1992.

Since the six-year term of former President Aquino and Vice-President Laurel began in February 1992 and, as such, would not achieve synchronization with the elections for other national officials, Senator Angara pointed out that the Transitory Provisions set May 1992 as the schedule for synchronized elections for the President, Vice-President, national and provincial officials senators, members of the House of Representatives, and other local officials. He said that it was the only instance wherein the term "synchronization" was included in the Constitution. Relative thereto, he asked whether there is a constitutional mandate to synchronize the national, local (including ARMM) and barangay elections, Senator Drilon answered that this mandate excludes the barangay elections but covers the ARMM as expounded by the Supreme Court in the case of *Osmeña vs. Comelec* which explains that the Constitution mandated not only a synchronized elections but also a synchronized term of office. He quoted Section 2, Article XVIII, to wit: "xxx Local officials first elected under this Constitution shall serve until noon of June 30, 1992."

He said that it is the same end-term for members of the Congress, members of the House of Representatives, the President and the Vice-President. He added that the simultaneous ending of the term is precisely in pursuit of the policy of synchronizing the elections.

Senator Angara averred that the *Osmeña* case refers to an election set in November 1992 which does not follow the national policy that set only one date for the election of President, Vice-President, senators, congressmen and provincial and local officials because it deviated dramatically from the May 1992 schedule for synchronized elections under the Transitory Provisions. Further, he asserted that the *Osmeña* case is not the authority for saying that the ARMM election must also be synchronized with that one single transaction in May 1992 as the starting date for the election. He believed that the issue of unconstitutionality alone is an arguable point.

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

As regards the suggestion that the term of office of ARMM officials should also begin on June 30 and not in September as proposed by the measure, Senator Drilon believed that while the term of office should begin at noon of June 30, the Organic Act has set September 30 as the starting date. He said that he was not discounting the possibility of eventually sponsoring a measure which will amend the Organic Act and make it conform with the constitutional mandate to set the term of office on June 30 and every three years thereafter.

Senator Angara stated that based on his own readings as well as the hearings conducted by the committee, the justification given on why there is need to postpone the elections and appoint caretakers is to implement a package of reforms in the ARMM, but he noted that Senator Drilon was, in effect, disavowing that rationale by stating that the synchronization of the ARMM elections was an issue of constitutionality. Senator Drilon stressed that the issue on whether the postponement of the election is necessary to institute all these reforms is debatable. He also stressed that the case of *Osmeña vs. Comelec* clearly shows that holding the ARMM elections on August 8, 2011 would be unconstitutional. He said that related issues such as whether or not cleansing the voters' list and instituting election reforms are necessary can be argued about from both sides of the fence. He stressed that as far as the Constitution is concerned, the lines of argument are clear and it is up to the Body to decide whether or not there is a basis to cancel the elections on the ground of transgression of the constitutional provisions.

Senator Angara said that to him, it sounded offensive to hear the pronouncements of some Cabinet members that in 22 months the appointed officials could correct the litany of evils in ARMM. He believed that the postponement of elections in order to install a set of reformers is the antithesis of democracy and a shallow excuse, underscoring that the distinctive mark of democracy is election.

Asked on the budget of the ARMM, Senator Drilon replied that it is a little over P11 billion. He stated that in two-years' time, the OICs will have P23 billion at their disposal and COA would stand guard over them.

Senator Angara expressed concern over the Administration's position that appointing officials would be better than electing them. By doing so, he asked what kind of message the Philippines would be sending in light of the clamor for representation that is sweeping countries across Africa and the Middle East. In reply, Senator Drilon stated that the Philippines would be telling the whole world that it is willing to take a position and correct laws which are inconsistent with the Constitution and that it would adhere to the rule of law.

However, Senator Angara asserted that the underlying principle of the rule of law is respect for tradition and history. He reminded the Body that the Muslim community has a long history of struggle for self-rule, even before the Spaniards came to the Philippines. Senator Drilon believed that regardless of whether or not history would be honored is debatable. He stressed that the first primordial rule is to follow the constitutional mandates as interpreted by the Supreme Court. He stated that the policy of having desynchronized elections, as had been done under the past seven laws, should have taken into account the constitutional mandate that there should be synchronized elections. He reiterated that the Body was trying to correct this anomaly through the bill and it is an opportunity for the Philippines to show the world that it is adhering to the Constitution.

But Senator Angara argued that one mistake does not correct repeated mistakes. He inquired if there was a pending case before the Supreme Court questioning the constitutionality of the August 8, 2011 elections. Responding thereto, Senator Drilon recalled that a petition was filed before the Supreme Court questioning House Bill No. 4146 and Senate Bill No. 2756 but there were also motions to dismiss the same on the ground that it was filed prematurely.

Asked why the Senate could not wait for the Supreme Court to render a verdict, Senator Drilon replied that it is an exercise by the Senate of its plenary power to pass judgment upon the constitutionality of law, in the same way that it had raised issues on the constitutionality of certain measures on a daily basis. He maintained that RA 9333 is unconstitutional and therefore must be repealed and the Body could agree or disagree with him.

Under the principle of separation of powers, Senator Angara asserted that the final authority rests on the Supreme Court and not Congress. He inquired again why Congress could not wait for the Supreme Court to decide on the matter.

POINT OF INFORMATION OF SENATOR ESCUDERO

At this juncture, Senator Escudero informed the Body that the petition filed before the Supreme Court, entitled *Michael Abas Kida, et. al. vs. Senate of the Philippines, et. al.* in GR No. 196271 was recently dismissed because it was filed prematurely given that Congress has not yet acted on the measure. He believed that there were no other pending cases, barring the filing of the petitioner of a motion for reconsideration. He said that the High Court only ruled that the petition was premature but not on the merits and substance of the bill.

INTERPELLATION OF SENATOR ANGARA
(Continuation)

Senator Angara stated that once House Bill No. 4146 becomes a law, the case becomes justiciable.

Alluding to the long history of Muslim struggle for self-rule, Senator Angara noted that since the independence movement came into being in Mindanao in the '70s, more than 120,000 lives have been sacrificed and to this day the killings continue. He expressed concern that Congress might be sending a wrong signal to the Muslim communities and the Organization of Islamic Conference (OIC) that the Aquino Administration could push through with the election or dispense with it.

Senator Drilon asserted that Congress was not trying to subdue or diminish the Filipino Muslims by setting and resetting elections in the ARMM at whim but, he stressed, it would be unconstitutional to hold elections on August 11, 2011. He stated that as mandated by the Constitution, the elections must be held on May 13, 2013, and every three years thereafter. He recalled that he questioned the Memorandum of Agreement on Ancestral Domain (MOA-AD), before the Supreme Court on the basis of its constitutionality. He acknowledged the need for electing the ARMM leaders, but he stressed that it must be consistent

with the Constitution as has been ruled by the Supreme Court in *Osmeña vs. Comelec.*

Senator Angara conceded that there was no argument when it came to the bounds of law. However, he pointed out that the biggest travesty of democracy is to take away the right of the people to suffrage which is the very heart of the opposition to the bill. In reaction, Senator Drilon stated that had Congress not committed errors by enacting the six laws, it would not be in such a predicament today. He said that the elections could have continued uninterrupted and synchronized with the national and local elections. He averred that in the course of time, Congress had enacted measures which ran afoul with the constitutional mandate on synchronized elections. He said that Congress could take the easy way out by allowing the election to push through, However, he believed that the Body would not be comfortable in allowing an unconstitutional election to take place.

Senator Angara likened the process to a yo-yo because the elections would be postponed for the sixth time. He stated that if the government gives the pledge for autonomy with one hand, and then takes it away with the other hand, it would only add up to the grievances of the Filipino Muslims and precisely, such grievance has given rise to the MNLF, MILF and other factions in Mindanao. He averred that canceling the elections will not heal the historic wounds of the Filipino Muslims. He opined that the Body owes it to the people of Mindanao to explain very well the policy considerations of the bill, believing as he did that everything can be rationalized. However, he said that what he cannot understand is why Congress is complaining about elections in ARMM when it is the opportunity for Filipino Muslim to correct mistakes, eliminate violence, cleanse the electoral process and produce results with the ARMM's P12-billion budget. He asserted that it is not for the people from Metro Manila to say "we know better." The Senate, he said, ought to continue sending the message that it wants to give the Filipino Muslims genuine self-rule, pointing out that the Administration was lucky that Muslim Mindanao was not asking for independence or separation from the archipelago, despite the clamor from some radical sectors.

In response, Senator Drilon stated that the Committee on Local Government consulted with a good number of men and women in ARMM and received position papers. He agreed there was no unanimity in the opinions and there were those who strongly favored postponement for their own reasons, including four of the five ARMM governors. However, he noted that the arguments do not necessarily reflect the general sentiment of the entire ARMM region.

Senator Angara took note that the Committee on Local Government, which conducted consultations on the measure, has recommended against the "cancellation of the election." But Senator Drilon pointed out that the Committee never tackled the issue of constitutionality.

Senator Angara said that it is very fragile to hold on to the single position of constitutionality because the Supreme Court may just simply say, "No, you are all wrong." He argued that it was not simply about postponing the elections, which has been done at least five times in the past which, he opined, was wrong. He cautioned the Senate against committing another wrong, noting that in this age of information and technology, everything uttered inside the session hall is communicated instantly to the far-away town of, say, Sultan Odin Sinsuat in Maguindanao, hometown of Rep. Sandra Sema. He said that the Body ought to weigh all the implications of its move because the people of ARMM might say that the Senate was rushing to postpone the elections. At the very least, he posited that the Senate should wait for the Supreme Court to render a judgment on the constitutionality of House Bill No. 4146 and Senate Bill No. 2756. He admitted that there was no pending case on these measures at the moment but for sure, once the bill was passed into law, a case would be filed.

For his part, Senator Drilon acknowledged that indeed a case would be filed questioning the constitutionality of the law but he expressed confidence that the Senate can defend it on constitutional grounds. He said that postponing the elections is something that has been done five times in the past and it is not a drastic action, on the part of Congress. He opined that once elections and terms of office are synchronized, any amendment would no longer be feasible because that would be inconsistent with the Constitution.

Senator Angara pointed out that synchronization is mentioned only once in the Constitution, specifically in the Transitory Provisions, which was a very

dramatic message that it is transitory, meaning it should only apply to one transaction, that it is not a mandate that was meant to be made permanent, and that it was only applied in order to synchronize the term of office of then President Cory Aquino and Vice-President Laurel with the terms of office of the senators and congressmen elected in May 1992. However, he asserted that in the *Osmeña* case, the Supreme Court departed from that single instruction in the Constitution to begin national and local elections in May 1992 and set another election in November 1992. He believed that this was all the decision said and it was not a sacred command that synchronization should be installed in the altar of constitutionalism. He reiterated that it is fragile to base a momentous decision on the simple assumption that holding the election on August 8, 2011 is unconstitutional.

Senator Drilon argued that at least, there was a basis for asserting that until reversed by the Supreme Court, the Constitution has mandated synchronized national and local elections as ruled in *Osmeña vs. Comelec*.

But Senator Angara underscored that on the contrary, the presumption ought to be regularity and legality rather than unconstitutionality. He stressed that canceling elections and thereby taking away the people's right to suffrage, the very instrument by which they can freely choose their leaders, is bad enough. He stressed that appointing OICs in the place of elected officials, to rule and govern over the people of ARMM for 22 months with only a presidential appointment for a mandate, makes the whole situation even more unpalatable.

But Senator Drilon insisted that Congress would be giving meaning to and, in effect, implementing the Supreme Court ruling in *Osmeña vs. Comelec* that mandates synchronized elections.

Asked whether the principle of succession under the Organic Act applies, Senator Drilon replied that the incumbent cannot hold over and the election of the vice governor suffers from the same constitutional infirmity as the governor.

On the criteria for selecting OICs, Senator Angara opined that transferring judgment from the people of ARMM to the Palace, or whoever is in charge of the whole exercise, smacks of autocracy rather than autonomy. Senator Drilon argued that the situation is such that the present system would allow and authorize the President to appoint OICs. He said that if the President abuses it in the exercise of his political prerogative, he would be answerable to the people.

Senator Angara recalled that the only time when a number of people were appointed to fill up a mass vacancy was immediately after Pres. Cory Aquino took over the country under the Freedom Constitution and he supposed it was done because the country faced a crisis. However, he said that in this instance, he does not see any crisis as serious and as deep facing ARMM. He disclosed that as reported by Comelec Chairman Brillantes, the Comelec has fielded a lot of election officers in ARMM to cleanse the voters' list and to install precautions against rampant cheating, adding that it has also come to his attention that a massive number of military and police personnel had been stationed in the ARMM to maintain peace.

Asked by Senator Angara what kind of environment the government was creating given the ongoing peace negotiations with the MILF, Senator Drilon replied that he had no personal knowledge of the goings-on but he had basis to believe that the other party to the peace process would endorse the postponement of elections.

In closing, Senator Angara asserted that in a way, Congress was taking away history and the long struggle for autonomy from the people of ARMM.

INTERPELLATION OF SENATOR ARROYO

Senator Arroyo said that he was surprised why President Aquino initiated the move to postpone the ARMM elections and, in the process, has trivialized the ARMM elections as if they were barangay elections. He noted that both the barangay and the ARMM elections have been postponed six or seven times.

Senator Arroyo observed that all of them, 23 senators, are Christians and it was unfair for them to tell the two to three million Muslims in ARMM how to run their government, and that it was also unfair that Christians who are supposed to be liberal and progressive-minded than the Muslims are so unliberal and unprogressive on this position. He noted that government has given autonomy to ARMM but it has never stopped meddling in its affairs. With autonomy, he said, Filipino Muslims were supposed to be left alone and he asked if it is fair, therefore, for 23 Christian senators to tell them that elections

would be postponed. He recalled that in order to put an end to the clashes between Christians and Muslims, the framers of the Constitution wisely provided for the creation of the ARMM, in return for which, the secessionists gave up their demand. However, he feared that the agitation for secession would be aggravated by the postponement of elections and the appointment of OICs to vacant elective positions who would govern for almost two years. He pointed out that synchronization actually translates to Christians appointing the Muslim officials of Muslim Mindanao.

As congressman for nine years, he recalled that when elections in ARMM were postponed, the House members simply asked the opinion of their Muslim colleagues whose decision was followed by the rest. In filing the bill, he asked whether the Aquino Administration was afraid of the results of the elections in the ARMM when the fact was that no incumbent Administration had ever lost.

Senator Arroyo urged the administration to take a cue from the Arab Spring. He pointed out that the revolutionary wave which simultaneously swept the Arab nations left western powers uncertain as to the political leanings of the opposition – whether they would adopt democracy or Muslim customs in running their own country.

Relative thereto, he stated that if the Muslim community would want to run their own affairs as they see fit, so be it, but to impose standards on them, he said, was kind of repugnant. He stressed that the problem in the ARMM would never be solved if government keeps interfering in the affairs of the region. This, he said, was the reason why he preferred to discuss the policy question rather than its legality. He noted that the President has not clearly defined his administration's policy regarding Mindanao, and he believed that canceling the elections would be anathema to autonomy. He said that the Muslim community deserves an explanation particularly as the senators, all of them Christians, would be voting on the matter even though it is the Muslims who would be affected by the result. He believed that the President had been ill-advised and that he should reexamine this proposal to postpone the ARMM elections.

Finally, Senator Arroyo reminded his colleagues that plans to amend the Constitution never succeeded in the past, not due to lack of merit, but because of the suspicion that the postponement of elections would result in an extension of the term of the incumbent. However, he said that the issue at hand is worse since the elections would be cancelled and new officials would be appointed. He suggested that if the main purpose of the bill would be to synchronize the holding of the polls, then the elections should proceed as scheduled in August, with the term of the elected officials ending in 2013.

Senator Drilon stated that the issue should not be viewed as a situation between religions, but as an issue affecting the Filipinos as a whole. He said that Christians and Muslims both need to abide by the Constitution which mandates the synchronization of the elections. He reiterated that the bill does not intend to dictate how the Muslims would run their government. He also stressed the importance of running the government consistent with the Constitution which binds the Filipino people.

INTERPELLATION OF SENATOR ESCUDERO

Senator Escudero recalled that in the hearings conducted in Marawi and at the Senate, the reasons given by the representatives of the Executive department for postponing the ARMM elections varied: Secretary Robredo wanted to clean the voters' list, abolish the private armed groups, and implement the COA recommendations; Secretary Deles' aim was to be able to act more freely for the peace talks in the region; while Secretary Llamas said that it was for the purpose of synchronizing the elections to save money. He added that even the explanatory note of the Sponsor mentioned the financial effect – P1.8 billion in savings – as the main reason for the synchronization and postponement of the elections.

Senator Escudero pointed out that the argument that Senate Bill No. 2756 should be passed to correct the unconstitutionality of RA 9333 occurred only after the hearings had been conducted and the bill had been crafted. He stressed that the argument had not even been raised during the deliberations in the House of Representatives.

Asked when the argument of unconstitutionality was realized, Senator Drilon said that this happened after he undertook a serious review of the jurisprudence and the Constitution, particularly the Supreme Court ruling in the case of *Osmeña vs. Comelec* in preparation for his defense of the bill.

Although it was not brought up in the committee hearings, he maintained that the argument should not be ignored.

Senator Escudero believed that other compelling reasons ought to be presented before the crafting of such a measure that would deprive the people of their right to suffrage and choice of leadership since the President would substitute his decision and discretion with that of all the voters in ARMM. Senator Drilon stated that the grounds are debatable but still, he maintained, adherence to the Constitution is a compelling reason to pass the measure.

To the contention that the reasons provided by Secretary Robredo, particularly the abolition of private armed groups and the implementation of COA recommendations, could be achieved even without the postponement of elections. Senator Drilon agreed but nevertheless maintained that it is debatable.

Asked if he would be willing to delete Section 6 on the ineligibility of the appointed officer-in-charge to run in the May 2013 elections during the period of amendments, Senator Drilon answered in the affirmative.

But Senator Escudero pointed out that the opposing parties who attended in the public hearing in Marawi were in agreement that those appointed by the President should be prohibited from running for public office in the following election.

Amid the possibility that a serious constitutional attack could be raised against the provision, Senator Escudero asked whether Senator Drilon had made adequate consultations with the various groups regarding the matter as this would be the strongest argument that could convince people to allow the appointment of OICs. He also asked if there was another way to ensure that the OICs would not run for reelection. Senator Drilon acknowledged that while there was indeed an agreement concerning the prohibition against having OIC appointees running for elective office, the grounds for qualification and disqualification had already been enumerated in the Constitution and the Organic Act. Therefore, he said that the appointment could not be included as a ground for disqualification.

As to the implementation of the agreement, Senator Drilon said that an alternative would be to have the appointee — notwithstanding the fact that there is no disqualification — commit to exclude himself from running in the May 2013 elections and have the President hold him to that commitment. However, he clarified that such a commitment could not be put in the law.

Senator Escudero remarked that it was not a question of whether or not it can be provided in the law, as he cited the opinion of the Department of Justice that the provision would constitute an amendment to the Organic Act which would necessitate a two-thirds vote and a plebiscite. As such, he said that Congress could very well add a qualification or disqualification regarding the elected officials of ARMM but he acknowledged that it would not be practical under the present circumstances.

At this juncture, the Chair inquired whether Section 6 would be an amendment to the Organic Act, noting that this was the first time that such a provision was being introduced as a precaution against appointed officials who might take advantage of their position to eventually run for elective positions.

Senator Drilon stated that the Organic Act provides for the qualifications, and that none of those qualifications would include a stipulation pertaining to the ineligibility of an OIC to run for an elective position.

The Chair pointed out that the measure gives Congress the authority to disqualify the OIC. Should the OIC fit all the qualifications in the Organic Act, the Chair said that it becomes a constitutional question whether the OIC waived his right to run for an elective position. This, it said, is an issue that ought to be considered during the period of amendments. Senator Drilon agreed and gave assurance that the matter will be put to a vote at the proper time.

Senator Escudero pointed out that the congressional power to disqualify these candidates could complicate matters and be construed as an amendment to the Organic Act, which consequently would require a two-thirds vote by Congress and a plebiscite. He said that such a situation could be avoided by deleting Section 6.

The Chair said that it could also be argued that the mere fact that the OIC-appointee — who is otherwise qualified to run under the provision of the Organic Act — accepted the position and, as such, has bound himself with the intent of the section,

would, in effect, constitute as having waived to run for a elective postion despite his qualification.

Senator Escudero recalled that during the committee hearing, he asked the resource persons why Section 2 of House Bill No. 4146, which was approved on Third Reading, was even there in apparent and obvious contradiction with the supposed intention of the two measures. He quoted Section 2, to wit:

> Section 2. *Terms of Office of Elective Regional Officials.* – The term of office of the Regional Governor, Regional Vice Governor and Members of the Regional Legislative Assembly of the ARMM shall be for a period of three (3) years which shall begin at noon on the 30th day of September following the day of the election and shall end at noon of the same date three (3) years thereafter.

He said that the reply that he got from Secretary Llamas and Secretary Robredo was that they were, in fact, only synchronizing the elections but not the term of the ARMM officials, to which he quickly retorted, "Then why does the title say 'an act providing for the synchronization of the elections and the term of office of ARMM officials'?"

Senator Drilon said that while the concerned secretaries might have a better response to the query, he would propose to delete Sections 2 and 3 and to amend the title of the bill at the appropriate time.

Senator Escudero said that he shared the same position that Republic Act No. 9333 is unconstitutional, but for another reason, that is, that it effectively amended the original Organic Act (Republic Act No. 6734) by changing the date of the election without the requisite two-thirds vote and without the requisite plebiscite as provided for in Article XVIII, Section 1 thereof:

> Section 1. Consistent with the provisions of the Constitution, this Organic Act may be amended or revised by the Congress of the Philippines upon a majority vote of the House of Representatives and of the Senate voting separately.

Noting the contention of Senator Drilon that House Bill No. 4146 only seeks to amend Republic Act No. 9333, Senator Escudero gave the reminder that Republic Act No. 9333 amended Republic Act No. 9054, Article XVIII, Section 7 of which set the date of the elections, viz:

> SEC. 7. *First Regular Elections.* – The first regular elections of the Regional Governor, Regional Vice Governor and members of the regional legislative assembly under this Organic Act shall be held on the second Monday of September 2001. The Commission on Elections shall promulgate rules and regulations as may be necessary for the conduct of said election.

Asked by Senator Escudero why House Bill No. 4146 was being considered as merely amending Republic Act No. 9333 and not an amendment to the Organic Act, Senator Drilon replied that the resetting of the election was done not under Republic Act No. 9054 but under Section 2 of Republic Act No. 9012, viz:

> SEC. 2. The regular elections for the regional governor, vice-governor and members of the regional legislative assembly of the Autonomous Region in Muslim Mindanao (ARMM) set forth under Republic Act. No. 8953 is hereby reset to the second Monday of September 2001.

Senator Escudero presumed that if Republic Act No. 9012 was neither approved by a two-thirds vote of both Houses of Congress nor approved in a plebiscite, like Republic Act No. 9333, it is defective and liable to an attack for being illegal and unconstitutional.

Senator Drilon said that even before then, there were other amendatory laws, for instance, Republic Act No. 8953 which synchronized the election to the second Monday of May 2001 which was, however, later on reset from May 14, 2001 to September 10, 2001 by Republic Act No. 9012, thereby desynchronizing it again.

The Chair remarked that if the election was reset many times by such amendatory laws, then there is indeed reason for Congress to correct it.

Senator Escudero expressed the belief that since Republic Act No. 9054 amended the original Organic Act, its contents, therefore, now form part of the Organic Act of the ARMM, including the date of the election to be on the second Monday of May and three years thereafter.

The Chair remarked that even if it were so, since the original Organic Act, which is a creation of

Congress, did not comply with the Constitution, it stands to reason that it must be corrected.

Senator Escudero maintained that for whatever reasons House Bill No. 4146 is being proposed, the fact that Republic Act No. 9054 is already part of the Organic Act, any amendment thereto must be approved by two-thirds of the membership of both Houses of Congress and by a plebiscite.

Senator Drilon emphasized that even assuming, for the sake of argument, that indeed the Organic Act set September 10, 2001 as the date of the election, still the Constitution, which is the supreme law, is written into the Organic Act and as interpreted by the Supreme Court, elections must be synchronized. And he pointed out that the constitutionality of RA 9054 is put to question because it provided for a desynchronized election.

Senator Escudero noted that the House of Representatives, when it voted to approve House Bill No. 4146, gave an overwhelming mandate of one vote over two-thirds of its entire membership, probably in recognition of the fact that it is an amendment to the Organic Act, and to avoid a possible constitutional attack that it did not comply with the provisions of how to amend it.

The Chair stated that while the number is a fact, the assumed reason for the existence of such number still has to be proven, as the overwhelming vote might possibly be just a matter of coincidence because of the number of members of the Liberal Party or the coalition with the Liberal Party supporting the President.

Senator Escudero said that what he merely wanted to point out was that on the assumption that his submission would be upheld in a case filed before the Supreme Court, the House would have no problem about compliance, unlike the Senate when the Majority Leader manifested that it only needs a majority of the quorum to pass the measure.

Senator Escudero likewise manifested his opposing view to Senator Drilon's position on *Osmeña v. Comelec* as he cited the Supreme Court ruling in 1999 SCRA, page 762: "It thus becomes very evident that the Constitution has mandated a synchronized national and local election prior to June 30, 1992 or more specifically as provided for in Article XVIII, Sec. 5 — on the second Monday of May, 1992."

He said that the second reason why the Supreme Court declared the law unconstitutional was that by setting the elections on the second Monday of May, it would effectively shorten the term of the local officials to two years and seven months instead of three (3) years as provided for in the Constitution.

Senator Escudero acknowledged that the Constitution was indeed clear with respect to synchronizing the elections in 1992, noting that even in the deliberations of the Constitutional Commission cited in the decision, a question was raised: "Are we synchronizing the local elections with that of the Presidential elections, or are we synchronizing the Presidential elections with that of the local elections?" He pointed out that the Constitutional Commission gave the President and Vice-President longer than six (6) years and the elected members of Congress longer than three (3) years precisely to synchronize the elections to the second Monday of May, 1992. He believed that the Supreme Court cited transitory provisions of the Constitution because it sought to provide for a transition prior to the holding of regular elections. In this regard, he cited the case of *Osmeña vs Comelec,* wherein the Supreme Court ruled that the Transitory Provisions (Article XVIII) of the Constitution sought to provide for a transition prior to the holding of a regular election and that Sections 2 and 5 thereof specifically speak of elections on the second Monday of May 1992. He believed that it would be stretching the ruling of the Supreme Court too far to say that it has mandated the synchronization of elections because as contained in the position paper of Senator Defensor Santiago, the Constitution did not so specifically mandate. He noted that by its very title, "An Act Synchronizing National and Local Elections," even RA 7166 did not include the synchronization of the elections in ARMM.

Senator Escudero said that it would also be stretching the ruling in *Osmeña vs Comelec* too far to say that all laws passed by Congress setting dates for elections other than the second Monday of May are unconstitutional. He asserted that the ruling is not on all fours with the matter of setting the date of elections in ARMM because it dealt with regular local elections.

Senator Drilon stated that the spirit and intent of the framers of the Constitution is very clear that there should be only one election every three years, hence, the synchronization. He argued that the synchronization cannot only be up to 1992, otherwise,

it does not make any sense to desynchronize afterwards. He reiterated that the policy is to have only one election every three years, thus the term of office is synchronized to end on the same hour, date and year, or by noon of June 30, 1992. He noted that the exact wording of the Supreme Court ruling was: "xxx the term *synchronization* is used synonymously as the phrase *holding simultaneously* since this is the precise intent in terminating their Office Tenure on the same *day or occasion*. This common termination date will synchronize future elections to once every three years." He stressed that RA 9333 is unconstitutional because it desynchronized the election.

Noting that there existed a clear difference in opinion, Senator Escudero read an excerpt from the ruling that pertained to the deliberations of the Constitutional Commission, to wit:

> MR. GUINGONA. *What will be synchronized, therefore, is the election of the incumbent President and Vice-President in 1992.*
>
> MR. DAVIDE. *Yes.*
>
> MR. GUINGONA. *Not the reverse. Will the committee not synchronize the election of the Senators and local officials with the election of the President?*
>
> MR. DAVIDE. *It works both ways, Mr. Presiding Officer.* The attempt here is on the assumption that the provision of the Transitory Provisions on the term of the incumbent President and Vice-President would really end in 1992.
>
> MR. GUINGONA. Yes.
>
> MR. DAVIDE. *In other words, there will be a single election in 1992 for all, from the President up to the municipal officials.*
>
> x x x
>
> MR. SUAREZ. Last point of inquiry to the Honorable Davide. From 1987 up to 1992, as envisioned under the Gentlemen's proposal, will there be no local or national election?
>
> MR. DAVIDE. None, Mr. Presiding Officer.
>
> MR. SUAREZ. *And the second local and national elections will be held in 1992?*
>
> MR. DAVIDE. *That is correct, Mr. Presiding Officer.*
>
> MR. SUAREZ. *Prior to June 30, 1992?*
>
> MR. DAVIDE. *Yes, Mr. Presiding Officer.*

Senator Escudero also quoted the Supreme Court's elucidation of the aforesaid constitutional debate as follows:

> With the clear mandate of the 1987 Constitution to hold synchronized (simultaneous) national and local elections in the second Monday of May, 1992, the inevitable conclusion would be that Republic Act 7056 is clearly violative of the Constitution because it provides for the holding of a desynchronized election. Stated differently, Republic Act 7056 particularly Sections 1 and 2 thereof contravenes Article XVIII, Sections 2 and 5 of the 1987 Constitution.

Relative thereto, he also read Section 2 of Article XVIII of the Constitution, to wit:

> Section 2. The Senators, Members of the House of Representatives, and the local officials first elected under this Constitution shall serve until noon of June 30, 1992.
>
> Of the Senators elected in the election in 1992, the first twelve obtaining the highest number of votes shall serve for six years and the remaining twelve for three years.

Senator Escudero submitted that the constitutional mandate thereon cannot be changed and to emphasize his point, he again read Section 5 of the same article, to wit:

> Section 5. The six-year term of the incumbent President and Vice-President elected in the February 7, 1986 election is, for purposes of synchronization of elections, hereby extended to noon of June 30, 1992.
>
> The first regular elections for the President and Vice-President under this Constitution shall be held on the second Monday of May, 1992.

Senator Escudero stressed that both sections refer to the 1992 elections, while the debates also referred to elections held prior to 1992, hence, RA 7056 is, indeed, unconstitutional because it contravened a direct provision of the Transitory Provisions of the Constitution insofar as the May 1992 election was concerned.

Senator Drilon explained that it is a cardinal rule in statutory construction that where the law is clear, there is no room for interpretation. He pointed out that the Supreme Court, in saying that "the election for Senators, Members of the House of

Representatives and the local officials (under Sec. 2, Art. XVIII) will have to be synchronized with the election for President and Vice-President (under Sec. 5, Art. XVIII), evidently considered the records of the proceedings in the Constitutional Commission earlier quoted by Senator Escudero in support of its ruling that elections should be synchronized.

Senator Drilon emphasized that RA 9333 is akin to RA 7056 because it also desynchronized the election. He agreed that there is, indeed, a difference in opinion but he maintained that his position was rooted and anchored on a correct reading of the ruling of the Supreme Court.

Senator Escudero asserted that if it was indeed the intent of the framers of the Constitution to synchronize the elections, the sections should have been placed not in the Transitory Provisions, which provided only for the transition to include the elections of 1992, but in any of the articles on the legislative department, executive department, suffrage or even in the local elections.

Asked to cite an instance where the President appointed officials instead of allowing the people to choose them in an election, Senator Drilon stressed that since the ARMM election on August 8, 2011, cannot be constitutionally sustained, a vacuum would be created necessitating the exercise by the President of his residual power to appoint.

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

Senator Escudero recalled that the first time the President appointed local officials instead of having the voters choose them was during martial law.

At this point, Senate President Enrile interjected that the second instance was in 1996 when, by virtue of the Freedom Constitution, all local officials were removed and replaced by OICs.

Senator Escudero pointed out under the 1935 and 1987 Constitutions, there never was an instance when the President appointed OICs in lieu of giving the voters the power to choose their elected officials. He said that he was raising the issue in view of the statement of Senator Drilon that the law abhors a vacuum and that the President has residual powers. He also noted that during the interpellation of Senator Zubiri, Senator Drilon also said that the residual power of the President has no specific provision in the Constitution and that it was only based on the ruling in the case of *Menzon vs Petilla, G.R. No. 90762, May 20, 1991.*

Asked whether the case of *Menzon vs. Petilla* is similar to the issue at hand, Senator Drilon replied that it is not necessarily similar because even without the ruling in the said case, the residual power of the President has always been recognized as arising from the presidential power to appoint.

Senator Escudero further noted that Senator Drilon cited the ruling in the case of *Osmeña vs Comelec* as the basis for arguing the unconstitutionality of RA 9333 and, therefore, it should be repealed, in order to correct a mistake. He averred, however, that there should at least be a Supreme Court decision that says the President's residual power exists since it is not expressly written in the Constitution.

Senator Drilon contended that it is not the decision of the Supreme Court which is the source of the residual power of the President but the power to appoint which is recognized in the tripartite system of the government. He pointed out that the power to appoint can be invoked if there is a vacuum in governance that he believed would happen since the August 8, 2011 election is unconstitutional.

Other than the case of *Menzon vs Petilla,* Senator Escudero asked if there is a Supreme Court ruling that established the supposed residual powers of the President to appoint. In response, Senator Drilon quoted a portion of the position paper of Senator Defensor Santiago, as follows:

> Since the Supreme Court prohibits holdovers, how should ensuing vacant public offices be filled? The Supreme Court ruled that such vacancies should be filled by the President, in the 1991 case of *Menzon v. Petilla* (197 SCRA 251). In that case, the Court noted that existing laws gave to the President the power to make temporary appointments in certain appointive offices, pursuant to his power of general supervision over local governments. The Court ruled: "However, in the absence of any contrary provision in the Local Government Code and in the interest of public service, we see no cogent reason why" the power of presidential appointment should not be exercised.

Senator Drilon stated that the residual power of the President has always been in existence but it was recognized only in *Menzon vs Petilla.*

Senator Escudero said that he empathized with Senator Drilon because except during martial law and under the Freedom Constitution, this was the first time that the President was being authorized to appoint local officials using the principle of residual power. He agreed that the principle exists but he noted that the decision in *Menzon vs. Petilla* did not use said term nor did Supreme Court categorically define it and that what was clearly stated was that the law abhors a vacuum and that it must be filled up. He clarified that he wanted the residual power of the President clearly established not for his benefit but to obviate any attacks against the law.

Senator Escudero narrated the background of the case in *Menzon vs. Petilla,* as follows: In February 1988, since the governor of Leyte has not been proclaimed, DILG Sec. Luis Santos designated Leopoldo Petilla as acting governor and Aurelio Menzon, a senior member of the Sangguniang Panlalawigan as acting vice-governor, in accordance with the Local Government Code; the provincial administrator questioned the appointment of Mr. Menzon in a letter addressed to the DILG Secretary, to which a department undersecretary responded, saying that indeed, the appointment was questionable; on the basis of the communication, the Sang-guniang Panlalawigan passed a resolution stating that it did not recognize the appointed vice-governor and, thus, he cannot receive any salary; Mr. Menzon then filed a petition before the Supreme Court asking if the DILG Secretary, acting as an alter ego of the President, can appoint him and if he was entitled to the salary; in its ruling in the case, the Supreme Court, said that whether Mr. Menzon's appointment was legal or not, he served as vice-governor in a *de facto* capacity and considering that he was also an elected official, he was, therefore entitled to receive his salary.

Senator Escudero again asked why the bill did not provide for additional qualifications or manner of selecting the OICs. Senator Drilon replied that Congress cannot tie the hands of the President. He clarified that the Organic Act specifies the qualifications for the elective officials of the ARMM which, he believed, should also apply to the OICs.

But Senator Escudero pointed out that even the Constitution, Article X thereof, provides that the President shall appoint from a list of nominees from multisectoral groups. Senator Drilon reiterated his position that the qualifications are already set forth in the Organic Act upon which the appointment of the OICs should be based. Nonetheless, he said that he would willing to propose a manner of selection which could be voted upon during the period of amendments.

Senator Escudero further pointed out that the GOCC Governance Act provided the manner of selecting presidential appointees to the boards. He believed that adopting such a provision in the instant bill would promote transparency, trustworthiness and credibility in the appointment of the OICs to the ARMM. Senator Drilon argued that additional qualifications would run counter to the Organic Act, but he gave assurance that he would wait for a proposal on the matter.

Senator Escudero recalled that during the previous week's Committee hearing, DILG Secretary Robredo read a draft defining the process of selecting OICs, and he asked if the Committee was aware of any proposal providing for the manner of selection, a byproduct of the supposed consultation with the constituency of the ARMM. In reply, Senator Drilon replied in the negative, as he gave the assurance that he would look into the proposal.

Senator Escudero stated that if the President is given the power to appoint OICs, it would be, in effect, a blank check that would allow him to choose from among those qualified under the provisions of the Organic Act, unless the Body would provide in the bill the manner of selection. In relation thereto, he said that also he wanted to get the sense of Senator Drilon on the proposal of some sectors in the ARMM to appoint OICs from among the incumbent elected officials in concurrent capacity, for instance, the President could appoint the acting governor from among the five elected governors of the ARMM. Senator Drilon said that he would await the formal proposal in paper, think about it and decide at the proper time but ultimately, he emphasized, the Body would decide on it. Senator Escudero said that he would submit the proposals at the proper time.

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

Senator Escudero stated that there must be compelling reasons to cancel an election and substitute the will of the electorate of the ARMM with that of one person. He said that while he trusted the President's discretion on the matter, it is not for one person to decide who should be the leaders of the people in the ARMM. He maintained that the will of one should not substitute the will of the people in the region. He noted that while Muslim countries in the Middle East and Africa were presently in turmoil and violence due to the absence of elections, the Senate would be doing the reverse. Nevertheless, he congratulated Senator Drilon for ably defending the bill endorsed by the Aquino Administration.

INTERPELLATION
OF SENATOR EJERCITO ESTRADA

Preliminarily, Senator Ejercito Estrada asked if this would be the first time that elections in the ARMM would be synchronized with the regular local and national elections. Senator Drilon replied that Republic Act No. 8953 first reset the ARMM election from September 11, 2000 to the second Monday of May 2001, the date of the national and local elections, but this was reset by another law.

Upon query, Senator Drilon stated that there had been at least six postponements of the regular elections in the ARMM.

Senator Ejercito Estrada observed that during the Ramos Administration, the ARMM elections were postponed twice, thrice during the Estrada Administration, and also thrice during the Arroyo regime.

Asked on the reasons for the postponements in those six instances, Senator Drilon said he was not able to research on the debates leading to the enactment of the various laws postponing the ARMM elections.

Senator Ejercito Estrada explained that he was not against the synchronization of the ARMM elections with the regular and national elections, but that what he was concerned about is the issue of appointing OICs who might not be the choice of the electorate in a particular area in the region. He said that he would prefer that the incumbent elected officials be allowed to continue in a holdover capacity to appease their constituents and other concerned groups.

Senator Drilon explained that from the point of law, the holdover capacity was held unconstitutional by the Supreme Court in the case of *Osmeña vs. Comelec*, when, citing *corpus juris segundum*, it held that, "It is not competent for the legislature to extend the term of officers *by providing that they shall hold over* until their successors are elected and qualified where the *Constitution has, in effect or by implication, prescribed the term* and when the Constitution fixes the day on which the official term shall begin, there is no legislative authority to continue the office beyond that period, even though the successors fail to qualify with the time." He maintained that the proposal for incumbent officials to stay in office in a holdover capacity cannot be accepted, and besides, the incumbent ARMM governor is under detention and cannot discharge his functions.

Asked whether the holdover principle was applied in the past when ARMM elections were postponed, Senator Drilon answered in the affirmative, but he stated that even if there was the holdover provision, it did not mean that it was constitutional.

On whether he took the initiative to question the constitutionality of the holdover principle when the ARMM elections were postponed, Senator Drilon admitted that at the time he was not aware of the Supreme Court decision in the case of *Osmeña vs. Comelec*.

As regards the appointing power of the President, Senator Ejercito Estrada asked whether a screening committee or a recommendatory body would be formed to advise the President. Senator Drilon replied that he was not aware if there would be such a body but he would not discount the possibility that one would be formed if the bill were passed into law.

On whether the President would take full responsibility for the actions of an OIC in the event that he/she abuses his/her authority or commits irregularities, citing for instance the case of the Ampatuans, Senator Drilon answered in the affirmative, adding that it is the price of political power.

Senator Ejercito Estrada opined that the move would be a big gamble for the Aquino Administration but he asserted that the President should be protected because the success of the entire nation depends on his success. Senator Drilon stated that every political leader should take the risk of being rebuked by the electorate for his/her official actions and decisions.

Asked who among the Cabinet members are allowed or are free to recommend OICs to the President, Senator Drilon admitted that he has no personal knowledge whether the President would go through the recommendations. However, he pointed out that nobody is prevented from making such recommendations, depending on one's perception of who can best run the ARMM. He stated that at this stage, however, no one knows how the President would proceed with the selection.

In answer to a further query, Senator Drilon presumed that the only criteria for the selection of the OIC are the qualifications provided for in the Organic Act.

Asked whether he would amend Section 6 *(Ineligibility of Appointed Officers-in-Charge)*, to allow OICs to run in the 2013 elections, Senator Drilon answered in the affirmative, adding that this was also the position of Senator Marcos who believed that Section 6 cannot stand scrutiny if tested against the Organic Act. However, he said that the proposal is subject to approval of the Body.

Senator Ejercito Estrada argued that the OICs would have undue advantage if they are eligible to run in 2013. Senator Drilon pointed out that it is a question of policy which the Body has to decide.

On the possibility that the President would appoint as OICs those currently holding office, Senator Drilon clarified that all of them are not disqualified from being appointed, except those who are facing criminal charges.

Given the political and cultural setup of ARMM, Senator Ejercito Estrada asked whether the people would recognize the authority of the OICs. He presumed that the policy or the legality of appointing OICs would be an issue. He then asked on the number of seats to be vacated once the bill is enacted into law. Senator Drilon answered that the seats to be filled up are those of the governor, vice-governor and 24 members of the legislative assembly.

At this point, asked by Senator Drilon how many senators were scheduled to interpellate on the bill, Senator Sotto replied that Senators Revilla and Cayetano (A) were next in line while Senator Osmeña would no longer do so.

STATEMENT OF SENATOR REVILLA

At the outset, Senator Revilla sought leave to enter into the record the following statement on the postponement of the ARMM elections:

> I believe that the best authority who could best understand the problems of our Muslim brothers in Mindanao are our Muslim brothers themselves. They are the best persons who can also solve this. They see their local conditions every day and appreciate their importance as well as the urgency of enhancing their improvement and solutions, as the case may be. If the ARMM is adequately empowered to cope with its own regional needs and problems, there could likewise be an orderly management of its regional affairs. This is also because local problems are best solved in the local level with solutions best suited in local ideal. If given such, the national government can now devote more time to attend to other problems that affect our nation other than the postponement of the elections in Mindanao.
>
> As early as 2004, amendments were made to the Organic Act of ARMM to strengthen local autonomy under Republic Act 9333. Congress recognized the importance of setting the date of ARMM elections amongst other provisions, further empowering our Muslim brothers to chart their future.
>
> In fact, the Senate was under the leadership of Senator Drilon as Senate President. But barely six years after its enactment, everybody seems to have totally disregarded this law because of expediency or because of Malacañang's insistence on appointing offices-in-charge in the ARMM.
>
> *Ang pagkakaroon ng regular na eleksiyon na ayon sa batas ay pagpapatunay na tayo ay tagasunod sa itinakda ng batas na ginawa natin na mga miyembro ng Kongreso. Mahirap man daw o walang nararating ang awtonomiya sa ngayon, hindi naman natin makakamtan ang tunay na awtonomiya sa pamamagitan ng pagbabago ng batas sa kaunting panahon na anim na taon lamang. Kung susuriin natin ang RA 9333, naniwala tayo noon dahil naipasa nga natin ang Batas na ang pagtatakda ng eleksiyon sa ARMM ay kailangan upang maging matagumpay ang awtonomiya sa Mindanao. Di po ba napakaiksi naman ng panahon na anim na taon upang malimutan agad natin ang kahalagahan nito? Wala pong binanggit sa batas na ito na magkakaroon ng* synchronized elections. RA 9333 is an act fixing the date of regular elections for elective officials

of the Autonomous Region in Muslim Mindanao pursuant to RA 9054.

There are only six sections in RA 9333 and nowhere can we see a provision on synchronized election. It is but appropriate that we now respect this constitutional political arrangement that our Muslim brothers and sisters agreed upon as the best compromise, in lieu of their radical position of a separate nation.

MANIFESTATION OF SENATOR DRILON

In response to the statement, Senator Drilon stated that while RA 9333 does not provide for synchronized election, the Constitution does, therefore, he was seeking the repeal of said law.

INTERPELLATION OF SENATOR REVILLA

Considering that an acting governor currently heads the ARMM, Senator Revilla asked if it is not but fair to allow the people of ARMM to elect their leaders and give them a fresh mandate to govern the region. Senator Drilon stated that it is really a question of whether the election to be held August 8, 2011 is constitutional or not. He said that Congress was not depriving the people of ARMM of the right to vote which they would do in the synchronized elections in May 2013.

Senator Revilla stated that it is envisioned that the OICs to be appointed by the President would institute the desired reforms in the region, but he pointed out that they would not be accountable to the people but only to the President.

Asked if the OICs are the right people to institute the desired reforms since they are not directly accountable to the people, Senator Drilon replied that the President would see to it that they do.

Asked if there is a roadmap for achieving the desired reforms, Senator Drilon confirmed that there is a roadmap but he maintained that the sole basis for postponing elections is the inconsistency of RA 9333 with the Constitution, as ruled upon in the *Osmeña* case.

Asked who would be appointed as professional managers, Senator Drilon said that he had no idea about the appointees or the selection process. He stated that the selection process is not part of the bill and it is a matter that the President must address at the proper time.

Asked if the desired reforms could be achieved before the May 2013 synchronized elections, Senator Drilon replied in the affirmative.

Asked whether there is a guarantee that the ARMM officials to be elected in 2013 would continue with the reforms assuming they were successfully instituted, Senator Drilon replied that since reforms are for the good of the ARMM, there is no reason not to continue them.

To the observation that the appointment of OICs would negate the spirit of autonomy and diminish democracy, Senator Drilon pointed out that because the elections on August 8, 2011 cannot be held, ARMM would not have elected officials after September 30, 2011, and that being the case, the President has the power to appoint OICs by virtue of his residual powers.

As regards the issue of security, Senator Revilla pointed out that the assistance of the AFP and PNP is necessary to ensure clean and peaceful elections, secure peace and order as well as deter possible violence.

Asked on the size of the AFP and PNP armed personel, Senator Drilon replied that the AFP and PNP each has approximately 135,000 armed personnel or 270,000 in total.

Asked how many of the AFP and PNP personnel were deployed in the 2010 national and local elections, Senator Drilon said that he had no data thereon. Senator Revilla disclosed that about 100,000 men were deployed at the time.

Senator Drilon said that he was not aware of how many armed personnel were deployed in the last ARMM elections, how much was spent on the deployment of troops or the number of areas in the ARMM where failure of elections was declared and the grounds therefor.

On the capacity of the AFP and PNP forces to ensure and protect the synchronized elections, Senator Drilon stated that notwithstanding their capacity, the AFP and PNP should be able to regulate the conduct of synchronized elections. He believed that it is incumbent upon the government to provide the necessary resources and manpower to carry out this constitutional mandate on synchronized elections.

Senator Revilla asserted that it is easier to maintain peace and order if the security forces as well as Comelec officials and personnel would focus mainly on the ARMM elections. He added that the police and the AFP would have difficulty in maintaining peace and order and in preventing hostilities in Mindanao if the ARMM elections were held simultaneously with the national and local elections.

As regards his position that RA 9333 is unconstitutional, Senator Drilon reiterated that said law provides for desynchronized election and desynchronized term of office which were declared unconstitutional by the Supreme Court in the case of *Osmeña vs. Comelec* on the ground that the Constitution mandates the synchronization of elections.

Asked if Congress would not be committing a mistake by approving House Bill No. 4146, Senator Drilon stated that precisely, Congress was doing it correctly this time.

Going beyond partisan politics, Senator Revilla emphasized the relevance of peace in Muslim Mindanao. He appealed to the Body not to frustrate the ardent wish of Filipino Muslims for the August 8, 2011 elections to push through for the sake of the nation, peace, democracy and the Filipino Muslims.

MANIFESTATION OF SENATOR SOTTO

At this point, Senator Sotto informed the Body that Senator Cayetano (A) would no longer interpellate on the bill.

On the issue of the deployment of PNP or AFP personnel in the ARMM, Senator Sotto clarified that whether or not elections are synchronized or desynchronized, armed government personnel would be deployed in all provinces in the ARMM. He believed that a substantial amount of savings would be realized with synchronization.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

There being no further interpellation, upon motion of Senator Sotto, there being no objection, the Body closed the period of interpellations and proceeded to the period of individual amendments.

MANIFESTATION OF SENATOR SOTTO

Senator Sotto clarified that his motion last week was to retrieve House Bill No. 4146, taking into consideration Senate Bill No. 2756, from the Archives, and not the committee report.

Pertinent thereto, Senator Drilon stated that there were no committee amendments since the Committee on Local Government took a contrary position on said bills.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 9:04 p.m.

RESUMPTION OF SESSION

At 9:11 p.m., the session was resumed.

DRILON AMENDMENTS

As proposed by Senator Drilon, there being no objection, the following amendments were approved by the Body, one after the other:

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1. On line 1, insert a new Section 1 to read as follows:

   SEC. 1. *DECLARATION OF POLICY.* – IN ACCORDANCE WITH THE INTENT AND MANDATE OF THE CONSTITUTION, IT IS HEREBY DECLARED THE POLICY OF THE STATE TO SYNCHRONIZE THE NATIONAL AND LOCAL ELECTIONS. PURSUANT THERETO, THE ELECTIONS IN THE AUTONOMOUS REGION IN MUSLIM MINDANAO (ARMM) IS HEREBY SYNCHRONIZED WITH THE NATIONAL AND LOCAL ELECTIONS AS HEREINAFTER PROVIDED.

2. As a consequence, renumber "Section 1" as SECTION 2;

3. On the same line, delete the phrase "For purposes of synchronization of elections, which is envisioned by the 1987 Constitution,";

4. On line 2, replace the small "t" of the word "the" with a capital "T";

5. Delete lines 8 to 18;

6. On line 19, renumber "Sec 4" as SEC. 3;

7. Delete the phrase starting with the word "For" on line 19 up to the number "2011" and the comma (,) thereafter on line 23;

8. On line 23, replace the small "t" of the word "the" with capital "T";

9. Delete the phrase starting with the word "who" on line 24 up to the number "2011" on line 26 and in lieu thereof, insert the following: FOR THE OFFICE OF THE GOVERNOR, VICE-GOVERNOR AND MEMBERS OF THE REGIONAL LEGISLATIVE ASSEMBLY WHO SHALL PERFORM THE FUNCTIONS PERTAINING TO THE SAID OFFICES UNTIL THE OFFICIALS DULY ELECTED IN THE MAY 2013 ELECTIONS SHALL HAVE QUALIFIED AND ASSUMED OFFICE.;

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10. Renumber "Sec. 5" as SEC. 4;

11. On line 4, between the words "in" and "Republic Act No. 9054," insert the following: REPUBLIC ACT NO. 6724, ENTITLED: "AN ACT PROVIDING FOR THE AUTONOMOUS REGION IN MUSLIM MINDANAO AS AMENDED BY";

12. Delete lines 7 and 8;

13. Delete lines 9 to 12;

14. Renumber "Sec. 7" as SEC. 5;

15. Between lines 17 and 18, insert a new section to read as follows:

SEC. 6. *SEPARABILITY CLAUSE.* – IN THE EVENT ANY PART OR PROVISION OF THIS ACT IS HELD INVALID OR UNCONSTITUTIONAL, OTHER PROVISIONS NOT AFFECTED THEREBY SHALL REMAIN IN FORCE AND EFFECT.;

16. Renumber "Sec. 8" as SEC. 7;

17. On line 18, before the word "All," insert the sentence REPUBLIC ACT NO. 9333 IS HEREBY REPEALED.;

18. Renumber "Sec. 9" as SEC. 8;

At this juncture, the session was suspended and was resumed shortly thereafter.

19. On line 22, between the words "in" and "newspaper," replace the article "a" with TWO (2);

20. On the same line, change the word "newspaper" to NEWSPAPERS; and

21. Reword the title of the bill to read as follows:

AN ACT PROVIDING FOR THE SYNCHRONIZATION OF THE ELECTIONS IN THE AUTONOMOUS REGION IN MUSLIM MINDANAO (ARMM) WITH THE NATIONAL AND LOCAL ELECTIONS AND FOR OTHER PURPOSES.

MANIFESTATION OF SENATOR SOTTO

Senator Sotto registered his reservation on the amendment deleting Section 6.

SUSPENSION OF SESSION

Upon motion of Senator Drilon, the session was suspended.

It was 9:27 p.m.

RESUMPTION OF SESSION

At 9:30 p.m., the session was resumed.

ESCUDERO AMENDMENTS

On the "Declaration of Policy," after the word "Constitution," as proposed by Senator Escudero and accepted by Senator Drilon, there being no objection, the Body approved the deletion of the comma (,) and the insertion of the following phrase: AND REPUBLIC ACT NO. 7166, ENTITLED "AN ACT PROVIDING FOR SYNCHRONIZED NATIONAL AND LOCAL ELECTIONS AND FOR ELECTORAL REFORMS, AUTHORIZING APPROPRIATIONS THEREFOR AND FOR OTHER PURPOSES."

Senator Escudero explained that the amendment was in response to the concern of some Members that Congress might be resetting the elections in ARMM all over again. He stated that if synchronization is indeed the intent, then R.A. No. 7166 must be mentioned in the bill to put into play the relevant provisions of the Omnibus Election Code which state the grounds for the postponement of the elections, i.e. the declaration of a failure of election, and for the setting of special elections. He pointed out that any subsequent postponement of elections would be made by Comelec, and not by Congress, based only on special and specific grounds.

EJERCITO ESTRADA AMENDMENT

Between Sections 3 and 4, at the instance of Senator Ejercito Estrada, as proposed by Senator Drilon, there being no objection, the Body approved,

subject to style, the insertion of a new section to read as follows:

SEC. 4. *MANNER AND PROCEDURE OF APPOINTING OFFICERS-IN-CHARGE.* THERE SHALL BE CREATED A SCREENING COMMITTEE WHOSE MEMBERS SHALL BE APPOINTED BY THE PRESIDENT, WHICH SHALL SCREEN AND RECOMMEND, IN CONSULTATION WITH THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE SENATE PRESIDENT, THE PERSONS WHO WILL BE APPOINTED AS OFFICERS-IN-CHARGE.

TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS

There being no other individual amendment, upon the motion of Senator Sotto, there being no objection, the Body closed the period of individual amendments.

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

INQUIRY OF SENATOR ESCUDERO

Senator Escudero inquired whether a simple majority of the senators constituting a quorum would be sufficient to pass the measure.

INQUIRY OF SENATOR MARCOS

Senator Marcos said that as pointed out by Senator Escudero, at the core of the debates was whether or not House Bill No. 4146, taking into consideration Senate Bill No. 2756, is an amendment to the Organic Act. Believing so, he posited that the bill, as amended, has to be approved by two-thirds vote of each House voting separately. He likewise inquired as to the manner of voting on the measure.

Senator Drilon said that the issue had been raised a number of times and he has taken the position that what was being amended and repealed is R.A. No. 9333, and not the Organic Act. He stressed that a two-thirds vote and a plebiscite were not necessary to pass the measure.

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

RULING OF THE CHAIR

Taking note of the response of Senate Drilon that House Bill No. 4146, taking into consideration Senate Bill No. 2756, was not intended to amend the Organic Act, the Chair ruled that a majority of the members constituting a quorum is sufficient to pass the measure.

MANIFESTATION OF SENATOR ESCUDERO

Senator Escudero took exception to the ruling of the Chair as he stressed that his participation in the voting should not be interpreted to mean that he acceded and was in agreement with the position of the Body and the Chair.

The Chair took note of the reservation of Senator Escudero.

MANIFESTATION OF SENATOR MARCOS

Senator Marcos objected to the ruling of the Chair, saying that a two-thirds vote is necessary to approve the bill which, he believed, is an amendment to the Organic Act. He called for a division of the House.

MANIFESTATION OF SENATOR ARROYO

Senator Arroyo expressed support for the position of Senators Escudero and Marcos.

MANIFESTATION OF SENATOR ZUBIRI

Senator Zubiri stated that he supported the position of Senators Marcos and Escudero that a two-thirds vote is necessary to approve the measure.

MOTION OF SENATOR DRILON

At this juncture. Senator Drilon moved for the approval, on Second Reading, of House Bill No. 4146, taking into consideration Senate Bill No. 2756.

Senator Arroyo objected to the motion.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 9:42 p.m.

RESUMPTION OF SESSION

At 9:42 p.m, the session was resumed.

APPROVAL OF HOUSE BILL NO. 4146 ON SECOND READING

There being an objection, the Chair called for a division of the House, and requested those in favor of the motion to approve the bill on Second Reading to raise their hands and, thereafter, requested those against it to do the same.

With 13 senators voting in favor, seven against, and no abstention, House Bill No. 4146 was approved on Second Reading.

PRESIDENTIAL CERTIFICATION

Upon direction of the Chair, Secretary Reyes read the President's certification as to the necessity of the immediate enactment of House Bill No. 4146, to wit:

MALACAÑANG PALACE
Manila

14 March 2011

HON. JUAN PONCE ENRILE
Senate President
Philippine Senate
Pasay City

Dear Senate President Enrile:

Pursuant to the provisions of Article VI, Section 26 (2) of the 1987 Constitution, I hereby certify to the necessity of the immediate enactment of House Bill No. 4146, entitled:

"AN ACT PROVIDING FOR THE SYNCHRONIZATION OF THE ELECTIONS AND THE TERMS OF OFFICE OF THE ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO (ARM) WITH THOSE OF THE NATIONAL AND LOCAL OFFICIALS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9333, ENTITLED 'AN ACT FIXING THE DATE FOR REGULAR ELECTIONS FOR ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO', AND FOR OTHER PURPOSES,"

to address the urgent need to protect and strengthen ARMM's autonomy by synchronizing its elections with the regular elections of the national and local officials, to ensure that the ongoing peace talks in the region will not be hindered, and to provide a mechanism to institutionalize electoral reforms in the interim, all for the development, peace and security of the region.

Best wishes.

Very truly yours,

(Sgd.) Benigno S. Aquino III

Cc: Hon. Feliciano R. Belmonte Jr.
Speaker, House of Representatives
Quezon City

APPROVAL OF HOUSE BILL NO. 4146 ON THIRD READING

In view of the presidential certification, 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 PROVIDING FOR THE SYNCHRONIZATION OF THE ELECTIONS AND THE TERMS OF OFFICE OF THE ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO (ARM) WITH THOSE OF THE NATIONAL AND LOCAL OFFICIALS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9333, ENTITLED "AN ACT FIXING THE DATE FOR REGULAR ELECTIONS FOR ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO," AND FOR OTHER PURPOSES.

Secretary Reyes called the roll for nominal voting.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

Cayetano (P)	Lacson
Defensor Santiago	Lapid
Drilon	Pangilinan
Ejercito Estrada	Recto
Enrile	Sotto
Guingona	Trillanes
Honasan	

Against

Angara	Osmeña
Arroyo	Revilla
Escudero	Zubiri
Marcos	

Abstention

None

With 13 senators voting in favor, seven against, and no abstention, the Chair declared House Bill No. 4146 approved on Third Reading.

EXPLANATIONS OF VOTE

By Senator Angara

Senator Angara stated that the Majority may have won the vote but he feared that the Senate may have lost the Muslim youth and many of those who think very deeply about the Moro people. With the vote, he said, the Moro people were being deprived of their most precious right — the right to choose their leaders.

By Senator Cayetano (P)

Senator Cayetano (P) explained her affirmative vote, to wit:

> This was a vote not easy to cast. Not only because the Chairman of the Committee on Local Government delivered an excellent and most convincing privilege speech, but because I have always been a firm believer and an advocate of the full right of suffrage. Full right of suffrage, to my mind, includes exercising the right in a timely manner. And this is what I feel is being compromised by this measure. This was my concern as the debate ensued. During the interpellation, the Constitution was quoted. Its interpretation both by the legislators and the Supreme Court was cited. Various laws and rules on statutory construction were likewise discussed. I marvel at the democratic process that we just participated in. There was a very enlightened exchange between the Sponsor and some of our colleagues. But it is my view now, after listening to the debates and taking note of the jurisprudence, interpretations and guided by the most thorough discussion contained in the speech of Sen. Miriam Defensor Santiago, that the synchronization and the principle of local autonomy can both be given importance and respected under this measure.
>
> I chose to support this administration's desire to institute reforms in this region where poverty is more of the rule rather than the exception. I look forward to the exercise of the right to suffrage by the people of ARMM along with the reforms envisioned by this Administration.

By Senator Escudero

Senator Escudero stated that he registered a negative vote because as shown in the result of the voting with no one of the senators coming from that region, it meant that the Senate did not want to consider the opinion of the people of ARMM regarding their choice of leadership.

By Senator Marcos

Senator Marcos stated that he voted "no," and although the decision has been made for the ARMM, he hoped that the government would heed his warnings regarding the negative consequences of postponing the elections lest these come true. Regardless, he stated that he would continue working for the autonomy of the Muslim Mindanao and to ensure that the Muslim people would continue to exercise their right of suffrage.

By Senator Pangilinan

Senator Pangilinan explained that his affirmative vote would allow sweeping reforms to be implemented in the region. Quoting Albert Einstein who said that "Insanity is doing the same thing over and over again, and expecting a different result each time," he noted that elections had been held in the ARMM over the years but nothing had changed. He emphasized that passing the bill would not mean the cancellation of elections or the abolition of democracy. Instead, he said that democracy would be given the chance to take root in a region fraught with criminality, lawlessness and wanton disregard of the rule of law.

By Senator Sotto

Explaining his affirmative vote, Senator Sotto stated that the synchronization of elections would be reasonable and practical for the country's scarce resources. He recalled that he was then a neophyte senator when he sponsored RA 7647 that eventually led to the repeated postponement of the ARMM elections, and it was then that he realized the necessity of holding synchronized elections. Although there

might be short-term disadvantages for those who think that the elections should be held in August, he expressed the view that the long-term benefits would be for the best interest of the country and Muslim Mindanao.

By Senator Zubiri

Explaining his negative vote, Senator Zubiri stated that the constitutional grant of autonomy to ARMM and, more importantly, the people's right to suffrage have been trampled upon. He lamented that democracy in the ARMM had died with the passing of the bill, and that those who died fighting for Muslim autonomy and self-governance in the '70s and '80s had once again experienced death. He also stressed that his supposed difficulty in grasping the law has not kept him, a non-lawyer, from understanding the basic fact that Senate Bill No. 2756 disregards and contravenes the 1987 Constitution.

He also agreed with the view of other Members who voted against the measure that Senate Bill No. 2756 is an amendment to the Organic Act and, as such, requires a vote of two-thirds of the Body

By Senate President Enrile

Explaining his affirmative vote, Senate President Enrile stated that the elections in ARMM had been postponed several times, and the issue of deprivation of the right to suffrage was never raised.

He emphasized that as one nation, the Filipino people are under one Constitution which should be respected. He reiterated that the purpose of the postponement of elections, which is temporary as compared to the life of the nation, is to comply with the supreme law of the land. He also stressed that no one is exempted, whether Christian or Muslim, atheist or believer, from the mandate and authority of the Constitution.

Senate President Enrile believed that the Muslim population or any sector of the society has not been deprived of the right to suffrage. He said that the postponement aims to correct a constitutional anomaly which is a desynchronized election. He added that too much has been spent on elections, hence, the people should no longer be burdened with too many elections. He believed that it is time for the country's leaders to bite the bullet and face the problem squarely.

Senate President Enrile expressed optimism that sovereignty will prevail among the Muslim people in Mindanao, and that peace will reign instead of war. He said that he has faith in the Muslim people's sense of nobility, love for country and patriotism.

On a final note, he cautioned parties opposed to the measure against resorting to violence.

CONFERENCE COMMITTEE ON HOUSE BILL NO. 4146

Upon motion of Senator Drilon on the part of the Majority, there being no objection, the Senate President designated the following as members of the Senate panel in the Bicameral Conference Committee on the disagreeing votes of House Bill No. 4146: Senators Guingona, Cayetano (P), and Drilon.

ADJOURNMENT OF SESSION

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

It was 10:01 p.m.

I hereby certify to the correctness of the foregoing.

EMMA LIRIO REYES
Secretary of the Senate

Approved on June 8, 2011