



REPUBLIC OF THE PHILIPPINES

S e n a t e

Pasay City

Journal

SESSION NO. 57

Tuesday, February 19, 2008

**FOURTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 57
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CALL TO ORDER

At 3:50 p.m., the Senate President, Hon. Manny Villar, called the session to order.

PRAYER

Sen. Joker P. Arroyo led the Body in prayer, quoting the prayer of Sister Abbey, a Protestant who became a Catholic nun:

Almighty God,
Bless and protect the Senate.

Spare us from the conflict and confusion,
From fire and wind,
From compromise and fear.

Make us always aware of our heritage;
Conscious of our rights and privileges
But more so our duties and responsibilities.

Make us know clearly Your will,
The salvation of this nation,
And the restoring of all things in Christ.

Amen.

MOTION OF SENATOR PANGILINAN

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the roll call; the consideration of the Journal; and the Reference of Business to a later hour to give way to the privilege speech of Senator Gordon.

**PRIVILEGE SPEECH
OF SENATOR GORDON**

Availing himself of the privilege hour and rising to a question of personal and collective privilege, Senator Gordon delivered the following speech:

NO UNFINISHED BUSINESS

I rise on a matter of personal and collective privilege regarding *some unfinished business* in our country which permeates our nation all the time.

I rise because as focused as we are on the most compelling issues and controversies of the day in our quest of what is right and what is just, we cannot do wrong to pause and look back on other times and other instances when we felt *similarly outraged by gross injustice*. And yet, in the end, our righteous anger and our grief amounted to nothing because justice never came.

I rise today in memory of the fact that almost 41 years ago, on February 20, 1967, a public servant lost his life to an assassin's bullet in the very lobby of the City Hall he had fought so *hard to secure for his people*, and to serve. His killer was a convict released from Muntinlupa for the sole purpose of eliminating the threat posed by this public servant to his political enemies.

He had shut down their illegal rackets, uncovered their web of corruption, and pledged to put an end to their long reign of terror and plunder. In return, he got a bullet in his head.

That man was my father, James Leonard Tagle Gordon, the first mayor of Olongapo City. I had said goodbye to him very early that morning, not just once but twice, before going on to my job in Procter & Gamble in Manila. Almost as soon as I arrived here in Manila, I got a phone call that told me my father had been shot. By the time I had driven back to Olongapo City, my father was (already) dead.

No son, no family should have to suffer that tragedy – that kind of sudden, savage loss that takes not just one's breath and his heart, but, *sometimes*, one's faith away. In our case, our Christian faith stood us in good stead. Because of my father's death, I resolved to become a *AA*

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lawyer, believing that justice could be sought and won and that I could bring the mastermind of this murder to judgment.

Prior to the assassination of my father, there were three other attempts on his life. The first one was on July 4, 1964. A hand grenade was thrown by a *Bahala Na* gang member as my father was coming back from a fire, which turned out to be a hoax.

The second one was on August 4, 1966. As my father was fighting another fire, three hand grenades were thrown to him. People around him were wounded; miraculously, my father escaped.

The third one was in November of 1966, when they burned our house in Manila, thinking that all of us, who were in the cemetery that day, would allow my father to go to Manila. He would have been ambushed in the zigzag road going to Manila to find out what had happened to his home that he had built assiduously with his hard-earned money. We did not allow him to go. Later on, we were to find out that there were people who were laying an ambush.

Finally, on February 20, 1967, like the previous attempts, Nonito Alincastre, an escaped prisoner from Muntinlupa, very young in years, was used by the masterminds, brought him to Olongapo, tried to shoot my father on a Sunday while hearing a mass. He finally got to him on Monday at the City Hall.

All these killings were perpetrated by people who were allowed to escape from prison. The syndicate or the connectivity of these people to people in high places truly indicates a kind of morass our country was in even at that time.

Sadly today, it is 41 years after Jimmy Gordon's killing. I am even older than my father was when he met his death, and most of the masterminds themselves are probably dead as well. But most of all, they never spent a day in court or a day in prison for their crimes because they were protected by the armor of political power.

By the way, my father, Jimmy Gordon, elected to be a Filipino, his father was an American. He had a brother who went back to the United States. My father opted to be a Filipino, by choice, of course, unlike many of us who were born by accident. He loved this country and he gave his life for his beloved city.

Sadly, my father and his family would not be alone in suffering that fate. Just ask our esteemed

colleague here, Noynoy Aquino. Just ask the family of the late Evelio Javier, whose 22nd death anniversary we marked just last week, on February 11, 1986, 22 years ago.

Evelio Javier, a student staff of the Antique Provincial Capitol, was guarding ballot boxes for the recently conducted elections. Then suddenly, four gunmen open fired at him. He was wounded in the arm and later on he was able to run away. They made chase. He stumbled on a pond. And as he was running away, he was telling people, "*Alis kayo diyani!*" To the last moment of his life, Evelio Javier was telling people "Stay out of harm's way." He was saying, "I am the target, stay out of harm's way." And indeed, when he finally got into an outhouse, his killers followed him, 22 shots were pumped into the outhouse. In fact, I was told that on the 23rd shot, one of the killers, who were wearing bonnets, removed his bonnet and shot him in the face delivering a *coup de grace*, perhaps, against not only Evelio Javier, but for the democracy at that time.

To this day, Evelio Javier's killers remain free. As usual, like my father, the masterminds have never gone to jail. And the small fish were the ones captured.

I remember when I passed the bar in 1975, after a brief sabbatical in the Constitutional Convention, I was told that there was one of those who were named in the Supreme Court. In the paragraph, I even remember exactly what it said: "Obviously, law enforcement agencies should go after the killers of Jimmy Gordon, of the top government officials, as well as two other ranking officials of Zambales, and a person by the name of Narciso Cruz." I went after Narciso Cruz in Malolos, Bulacan. I went with my classmate because the NBI at that time said, "No more."

Well, I did not say "No more." I was able to get one agent to come with me. His name is Levi dela Paz and we waited for two weekends for this man to come out of his house. On the second weekend, we were rewarded. We were able to catch him. We put him in the car and my classmate went to the town police department and said that Attorney Gordon and Mr. Dela Paz had captured somebody by virtue of a pending warrant, the suspect in the assassination of Jimmy Gordon. We brought him and deposited him to the NBI, even looking at some of the agents there and said, "You see, if you want to catch somebody, you can catch him." I went home to change and when I came back, the

suspect in the assassination was saying, "If you give me some money, I will talk." Of course, even at that time, I was hardheaded and, perhaps, overly passionate. I did not want any paid stories to come out in the killing and I said, "You are not going to get paid a single cent. If you want to speak the truth, you liberate yourself by telling the truth." Of course, he did not. Somehow, people got to him, he got out, and justice paid him properly. A few months later, when he was on his roof putting clothes on the clothesline, a lightning literally hit him and he died. This is what I was told.

All through those times, I have been going all the way to Mr. Marcos. I wrote him a letter because after a while, the go-between and the mastermind, the former chief of police, was pardoned. His sentence was commuted by President Marcos. I wrote him a long letter because, after all, we saw him immediately after the death of my father. He relieved the entire police department. I wrote him a letter and I said, "Mr. President, before you can be merciful, you must be just." Nothing happened and the sentence was commuted.

Today, we see all kinds of killings as well. Literally, one has to fight. One has to work hard. One cannot rely on the usual policemen of this country unless there are a dedicated few who are willing to help.

Just ask the family of David Pamplona, the mayor of Balete town in Batangas, who just six days ago, on February 13, was shot dead by unidentified men in the car he was riding along with his daughter and three other people. Pamplona's killers remain at large.

Indeed, why limit ourselves to politicians for whom murder and assassination might be considered an occupational hazard? Seemingly, mysterious and inexplicable killings have been plaguing our country, claiming activists, journalists and even priests and judges for its hapless victims.

Between 2001 and 2007, there were 887 such killings, 97 of those are women. Since 1999, 15 judges have been killed. In 2003, seven journalists were killed - the highest since 1984. But that record was beaten by 13 killings in 2004, and for all the 91 journalists killed between 1986 and 2007, only two suspects were arrested. Even priests have been executed.

Who stands to answer for these murders? Whose dark and deadly hand has been behind them?

Politically and forensically, many of these premeditated killings share a pattern. Someone caused them to happen and that someone is free.

Many of these people I talked about are men of influence, men of high profession and of letters, men who are wealthy. Who will join the government if people are killed without justice?

What about the poor? Who speaks for them? My hope is that the Senate, which claims to be representatives of the people, must always rise in disgust, not just in condemnation, but vigilant as ever, to try and coax our police people to indeed run after these malefactors. For if we are killed because we simply disagree to issues, we would be killed because we start the crusade, and we think that our lives are in danger, who will be brave enough to speak for the people?

I bring up these unsolved murders on the eve of my own father's 41st death anniversary tomorrow, the 20th, the day he died, and on Evelio Javier's 22nd death anniversary. I was in Antique as guest of Governor Sally Perez and they were very grateful because according to her, we were able to talk with young people, and hopefully, instilled in them the continuous fight for justice and not to be afraid.

Now, I wish to call on our colleagues here in the Senate to close ranks behind the common resolve to use our legislative and moral powers to protest and be vigilant against these killings; to craft the laws to help ensure that they do not happen again; and to use our powers which we seemed we have plenty of when the television cameras are in front of us, to use these times and its opportunities so that we can really justify our democracy.

Of course, it could very well be that we already have the laws, yet we lack the moral courage and the political nerve to enforce them for fear of upsetting political forces in our society. If that were so, then we have no business being here. I should have not wasted my time on studying the law if we agree simply to be held hostage by our fears.

It is bad enough that some of our citizens are being murdered for their political beliefs. For their refusal to brook corruption, for standing in the way of the unbridled ambitions of others. It is worse that they are murdered and yet their killers, the masterminds behind their killings go free.

And they go free because we often lack the courage and the resolve to pursue justice to its

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necessary end. The Romans could not have put it more clearly when they said "*Fiat justitia et ruat caelum.*" Let justice be done though the heavens fall!

In other words, justice itself is more important than its immediate consequences. It is the promise of justice and equality under the law that binds society, that mitigates the power of wealth and makes even poverty tolerable.

I often said when I was mayor of Olongapo, "God created us to be equal. But in reality, it is the law that assures that equality. And if we cannot enforce the law, then there can be no equality."

Instead, we have gotten used to a society and a regime that eschews closure, that fears the truth and favors moral compromise for political expediency. Never mind the countless dead who are rotting in their graves without anyone to pay for their foul misdeeds. Never mind that their killers become even more emboldened by their cavalier immunity from the law. But without closure, there can be no healing.

Look at the case of Bobby Dacer. In 2001, together with his driver, he was kidnapped in Makati. They were later killed and their vehicle dumped.

Nida Blanca, who was found murdered in a parking lot in Greenhills on November 7, 2001 was beaten to death and stabbed 13 times.

Congressman Luis Bersamin of Abra, who was attending a wedding in Quezon City, was savagely ambushed and murdered as he came out of Mt. Carmel Church.

Recently, we all read about the deaths in Sulu, the deaths of journalists, judges, women and children, and the ultimate reasons for their murders still remain a subject of debates today. With all these open wounds, we can only continue to bleed as a people and as a nation. We cannot afford to relegate justice to the category of unfinished business. I myself put it in the calendar of business as unfinished business of this country rather than the laws that we try to pass in this country. Our evasions and our denials will catch up with us. And one day people will forget what justice ever did or what it ever was.

But — we are reminded — there was a time when there were men who were just as brutish, but also men who found the courage to say again "*Fiat justitia, ruat caelum.*" Let justice be done, though the heavens fall.

Remember Moises Padilla of Negros Occidental? Despite death threats from Governor Rafael Lacson in November 1951, he ran as mayor of Magallon. President Magsaysay sent bodyguards and a contingent of marines to protect him. Days before elections, the protection was withdrawn. Nobody knew who gave that order. Padilla lost the election. The next day he was seized by Governor Lacson's men, beaten, tortured and paraded in public in his town with a warning that those who oppose Governor Lacson face the same fate. Then his legs were broken to make sure he could not escape. He was assassinated.

President Magsaysay said then, "When I carried Moises' dead body, I was carrying the dead body of Philippine democracy."

The judge who sentenced Rafael Lacson to death knew that his own life was on the line; after all, the judge had been Lacson's friend. Yet at the sentencing, he had the quiet courage to say, "Circumstances arise when the loyalty of friendship must give way," as he sentenced 22 defendants including Governor Lacson, three mayors, and three police chiefs to death on the electric chair. Afterwards, a woman was heard to say, "Now I know that justice is for the rich and for the poor alike."

Where are men of such probity today? Ironically, probably dead for even judges have not been spared the sickle of these summary executions.

And so, it is left to us to raise our voices in protest of these unsolved and yet systematic killings. It may be too late to bring justice in the case of men like Jimmy Gordon, Ninoy Aquino and Evelio Javier. But it is not yet too late to get to the bottom of a long list of unsolved murders and to prevent murders that will come surely if we will not do anything about them.

It will be a difficult and dangerous task but it will do much to restore our people's badly eroded faith in our public institutions — the government, the judicial system, the police, the military, and yes, the lawmakers.

My father shared more than a death anniversary with Evelio Javier. They both liked the song "*The Impossible Dream*," and we can see why. They were both dreamers and both moved heaven and earth to achieve that dream. Sometimes, I have to admit, I too have begun to see the achievement of justice at least for my father as an impossible dream. *AS*

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But let me go beyond the song to the book itself that was sent by my sisters in the United States at that time in 1967, called "*Man of La Mancha*." Cervantes, the author of *Don Quixote* said in a Spanish prison cell and I shall end with these words: "I've been a soldier and a slave. I've seen my comrades fall in a battle or die more slowly under the lash in Africa. I've held them in my arms at the final moment. These were men who saw life as it is, yet they died despairing. No glory, no brave last words, only their eyes, filled with confusion, questioning 'Why?' I don't think they were wondering why they were dying, but why they ever lived. When life itself seems lunatic, who knows where madness lies? To surrender dreams—this may be madness; to seek treasure where there is only trash. Too much sanity may be madness! But madness of all— to see life as it is and not as it should be."

This February, in this unseasonable remembering of those unjustly fallen, despite and against the sordidness of our political realities and as one of our witnesses had said, are dysfunctions, let us see life as it should be. Let us see life as it should be and work to achieve that life for the Filipino people.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:19 p.m.

RESUMPTION OF SESSION

At 4:20 p.m., the session was resumed.

ROLL CALL

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

Aquino III, B. S. C.	Lacson, P. M.
Arroyo, J. P.	Lapid, M. L. M.
Biazon, R. G.	Madrigal, M. A.
Cayetano, A. P. C. S.	Pangilinan, F. N.
Cayetano, C. P. S.	Pimentel Jr., A. Q.
Ejercito Estrada, J.	Revilla Jr., R. B.
Enrile, J. P.	Roxas, M.
Escudero, F. J. G.	Villar, M.
Gordon, R. J.	Zubiri, J. M. F.
Honasan, G. B.	

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

Senators Angara and Defensor Santiago were on official mission, the latter abroad.

Senator Legarda was absent.

Senator Trillanes was unable to attend the session.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Pangilinan acknowledged the presence of political science and public administration students from the Polytechnic University of the Philippines; and Regional Trial Court Judge Socorro Inting.

APPROVAL OF THE JOURNAL

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 56 and considered it approved.

REFERENCE OF BUSINESS

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

BILLS ON FIRST READING

Senate Bill No. 2082, entitled

AN ACT AMENDING SECTION 109
OF THE NATIONAL INTERNAL
REVENUE CODE, AS AMENDED,
AND FOR OTHER PURPOSES

Introduced by Senator Loren Legarda

**To the Committees on Ways and Means;
and Health and Demography**

Senate Bill No. 2083, entitled

AN ACT TO PROMOTE A LOW
CARBON ECONOMY ESTABLISH-
ING FOR THIS PURPOSE THE
EMISSION CAP-AND-TRADE SYSTEM
IN THE INDUSTRY SECTOR TO

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REDUCE GREENHOUSE GAS
EMISSIONS AND PROTECT THE
CLIMATE

Introduced by Senator Loren Legarda

**To the Committees on Environment and
Natural Resources; Economic Affairs; and Finance**

Senate Bill No. 2084, entitled

AN ACT PROVIDING FOR THE
TRANSFER IN THE PHILIPPINES
OF SCIENCE AND TECHNOLOGY
RELATED PROFESSIONS BY
OVERSEAS FILIPINO PROFES-
SIONALS, APPROPRIATING FUNDS
THEREFOR AND FOR OTHER
PURPOSES

Introduced by Senator Antonio "Sonny" F.
Trillanes IV

**To the Committees on Science and Tech-
nology; Labor, Employment, and Human
Resources Development; Ways and Means;
and Finance**

Senate Bill No. 2085, entitled

AN ACT CREATING THE PHILIPPINE
HALAL ACCREDITATION AND
REGULATORY BOARD AND FOR
OTHER PURPOSES

Introduced by Senator Antonio "Sonny" F.
Trillanes IV

**To the Committees on Agriculture and
Food; and Trade and Commerce**

Senate Bill No. 2086, entitled

AN ACT ESTABLISHING THE EMER-
GENCY MANAGEMENT AGENCY
(EMA) AND PROVIDING FUNDS
THEREFOR

Introduced by Senator Antonio "Sonny" F.
Trillanes IV

**To the Committees on National Defense
and Security; and Finance**

Senate Bill No. 2087, entitled

AN ACT PROVIDING FOR A HIGH-
WAY SAFETY PROGRAM IN THE
PHILIPPINES, AND FOR OTHER
PURPOSES

Introduced by Senator Antonio "Sonny" F.
Trillanes IV

**To the Committees on Public Services;
Public Works; and Finance**

Senate Bill No. 2088, entitled

AN ACT TO STRENGTHEN THE
RECYCLING PROGRAM FOR
ALL RECHARGEABLE BATTE-
RIES MANUFACTURED, SOLD
AND DISTRIBUTED IN THE
PHILIPPINES, AND FOR OTHER
PURPOSES

Introduced by Senator Antonio "Sonny" F.
Trillanes IV

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

COMMUNICATIONS

Letter from Manuel G. Galvez Jr., President and
CEO of Vanguard Radio Network Co., Inc.,
dated January 31, 2008, informing the Senate
that the company has complied with the
requirements of the Senate and the House of
Representatives concerning Republic Act
Nos. 7529 and 8069.

To the Committee on Public Services

Letter from Assistant Governor and General
Counsel Juan De Zuñiga Jr. of the *Bangko
Sentral ng Pilipinas*, dated February 8, 2008,
furnishing the Senate with a certified copy of
BSP Circular No. 600, s-2008, dated February
4, 2008, in compliance with Section 15 (a) of
Republic Act No. 7653 (The New Central
Bank Act).

**To the Committee on Banks, Financial
Institutions and Currencies**

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**COMMITTEE REPORT NO. 36 ON
SENATE BILL NO. 2046**
(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on *Second Reading*, of Senate Bill No. 2046 (Committee Report No. 36), entitled

AN ACT PROMOTING AND ENHANCING THE DEVELOPMENT, UTILIZATION AND COMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES.

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

Thereupon, the Chair recognized Senator Zubiri, cosponsor of the measure, and Senator Enrile for the continuation of his interpellation.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:25 p.m.

RESUMPTION OF SESSION

At 4:28 p.m., the session was resumed.

INTERPELLATION OF SENATOR ENRILE
(Continuation)

Asked by Senator Enrile if the bill encourages microscale projects to produce not more than 100,000 kilowatts of power, Senator Zubiri replied in the affirmative, adding that the bill supports micro and mini energy sources utilizing renewable energy, and large-scale projects.

Senator Enrile asked whether the bill intends to hasten the open-access policy under certain conditions, as provided for under Republic Act 9136, among which is that on the generation or supply side, the National Power Corporation must first reduce its control of the generation market and its IPP contracts from 70% to 30% before open access could be undertaken. He also asked whether the bill seeks to overcome the limitations of the EPIRA so that a generator could set up a plant of renewable energy

and use the transmission line and wires of any franchise holder in any given area. In reply, Senator Zubiri explained that the bill seeks to make it easier for players of renewable energy sources to get open access to the market, citing Section 5 which imposes a Renewable Portfolio Standard (RPS) on all suppliers of electricity, and Section 7 which establishes a Green Energy Option program which provides end-users the option to choose renewable energy resources.

On the observation that the bill would, in effect, amend all franchises of current electric power distributors in the country without having to amend the EPIRA, Senator Zubiri replied in the negative, saying that it would simply impose the RPS on electric suppliers, that is, to come out with 10% of their energy portfolio through green renewable energy.

On whether the bill, in effect, allows the buyers of hydro-generating and geothermal plants to directly sell some of their produced energy to end-users of at least 100 kilowatts in competition with the distribution company in place, Senator Zubiri replied that this would not be applicable to large hydroelectric power projects which are actually damaging to the environment because of methane gas.

Senator Zubiri pointed out that the definition of the term "renewable energy resources" in Section 4 (nn) also mentions run-of-river hydropower but he clarified that it refers only to mini-projects.

Once the bill is enacted into law, asked whether existing geothermal plants could already market renewable energy directly to customers without having to contend with the rights and interests of power distributors like Meralco, CEPALCO, Visayan Electric Co. and others, Senator Zubiri replied that they could but they must pay wheeling charges.

Asked whether the affected sectors had been informed by the Committee of the impact of the law on their businesses, Senator Zubiri replied in the affirmative, adding that the EPIRA in fact pushes for open access to certain industries that may want to buy energy from a plant of their choice. He stated that open access for the distribution companies would not be a problem because it is provided for in the EPIRA. He added that what the bill seeks is an exemption from the TRANSCO wheeling charges. He stated that RE generators

would have to pay the distribution companies for the use of their lines.

Asked what the sanction would be on Meralco in case it refused an RE generator to use its lines, Senator Zubiri replied that Senator Enrile could introduce the appropriate amendment in due time.

On whether it is the intent of the bill to have open access without complying with the conditions set forth in the EPIRA, Senator Zubiri clarified that the Renewable Energy Act would actually enhance the amendments to the EPIRA Bill of Senator Enrile and that, in fact, President Arroyo, in a speech in the last energy summit, mentioned that the two bills are equally important. He reasoned that the amendments to the EPIRA would make the Renewable Energy Act work because without open access, it would be difficult to push for an environment-friendly but expensive industry. He affirmed that under the proposed Act, an RE generator would be able to service big customers.

As to the query whether the stakeholders in the power industry has been informed of such intent, Senator Zubiri stated that Senator Defensor Santiago had conducted extensive hearings on a similar bill in the last Congress that, for lack of time, failed to pass.

Asked whether both existing generators of renewable energy like the Burgos wind farm, and new entrants to the industry would be entitled to the proposed incentives mentioned in Section 13 and other provisions of the bill, Senator Zubiri clarified that only the new entrants could avail of these benefits. However, he asked for Senator Enrile's assistance in strengthening the bill, saying that he would want local communities hosting renewable energy projects to also be given incentives considering that some of them, such as those in Albay, are burdened with high electricity rates.

To the observation that the bill does not grant operators of existing generating plants producing renewable energy, such as those in Magat, Angat, Pantabangan, Ambuklao, Caliraya and Burgos, the same concessions as new industry players, Senator Zubiri explained that existing operators might avail of these incentives for their expansion projects.

Senator Enrile wondered whether the losses to government revenues due to the cost of implementing

such incentives would be balanced by the benefits resulting from these RE-generating plants, Senator Zubiri stressed that while there would be revenue losses due to incentives such as duty-free importation of machinery, equipment materials, and tax credits on domestic capital equipment and services, the benefits are expected to far outweigh these costs in terms of promoting cleaner technology, reducing greenhouse gases and helping reduce the problem of climate change.

Upon further queries, Senator Zubiri explained that Section 15 of the bill gives renewable energy sources the benefit of priority dispatch in accordance with the rules of the Wholesale Electricity Spot Market (WESM), while the term "maximum penetration limit" is a technical term referring to the maximum allowable power flow of electrons into the transmission lines or grid. He gave assurance that he would supply Senator Enrile with the necessary data.

Senator Enrile asked for an explanation of the phrase "deep-connection charging policies in rate-making" found on page 10, line 8 of the bill.

In the course of Senator Enrile's interpellation, Senate President Villar relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.

SUSPENSION OF SESSION

Upon motion of Senator Zubiri, the session was suspended.

It was 4:58 p.m.

RESUMPTION OF SESSION

At 5:00 p.m., the session was resumed.

Senator Zubiri informed the Body that the phrase refers to ancillary services for power delivery service similar to the overhead cost for using Transco transmission lines.

Senator Enrile asked whether the government would be paying for deep-charging policies in rate-making and how much this would cost in terms of kilowatt hours or as would be reflected in household electric billings. Senator Zubiri said that the resource persons from the DOE are unavailable but promised to provide Senator Enrile with the necessary data.

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At this juncture, Senator Enrile said that he would suspend his interpellation pending submission of the data that he requested.

SUSPENSION OF SESSION

With the permission of the Body, the Chair suspended the session.

It was 5:01 p.m.

RESUMPTION OF SESSION

At 5:03 p.m., the session was resumed.

INTERPELLATION OF SENATOR ESCUDERO

Asked by Senator Escudero whether the bill aims to reduce the country’s reliance on generation systems powered by imported fossil fuels as well as lower power costs and ensure energy security and stability in the country, Senator Zubiri replied in the affirmative but clarified that while operating renewable energy plants would be a little more expensive than normal coal, gas or bunker fuel power plants in the initial stages, not only would these be cheaper in the long run, but even the country’s independence on energy sources would definitely be established.

Asked for the country’s current indigenous and imported fuel mix, Senator Zubiri gave the following information:

	<i>Luzon</i>	<i>Visayas</i>	<i>Mindanao</i>
Coal	31%	9.6%	--
Wind	0.01%	--	--
Natural Gas	25%	--	--
Hydro	17%	0.8%	60%
Geothermal	6.9%	56.9%	7%
Oil-based bunker fuel	19.4%	32.8%	33%

He explained that based on the cited data, there is a 50%-fuel mix of coal and oil-based fossil-fueled power plants for Luzon and about 42% for Visayas. He noted that for 2005 alone, the country imported 36.5% of oil and 6.4% of coal supplies, adding that about 50% of the country’s installed power generation capacity is fossil-fuel based.

At this juncture, Senator Roxas requested that the Committee Secretariat furnish the Members

with copies of Senator Zubiri’s powerpoint presentation. Senator Zubiri gave assurance that the Members would be provided with copies as soon as possible.

Asked by Senator Escudero whether the bill covers only indigenous renewable energy sources, Senator Zubiri replied in the affirmative.

Asked for the short- or medium-term plans of the DOE with respect to increasing energy capacity from indigenous renewable sources, Senator Zubiri replied that the DOE aims to develop about 2,500 megawatts of renewable energy by the year 2012. He acknowledged, however, that he still could not determine how much the bill could bring into the pipeline.

Asked how long it would take to set up a generating plant, Senator Zubiri said that a geothermal power plant could be set up in three to five years, a wind turbine project like the one in Bangui Bay in two to three years, and a solar power plant like Cepalco’s in one to two years.

Asked if the 2,500 megawatt capacity is only the indicative project lined up by the DOE leading up to 2014 and not 2012, Senator Zubiri answered in the affirmative. He said that he does not have the necessary data with respect to the committed capacity for renewable energy.

In reply to further query, Senator Zubiri explained that “indicative capacity” is basically the potential for a certain area to produce renewable energy and its potential to attract investors, while “committed capacity” includes the ones actually in the pipeline or those being expressed by the investors to develop.

Senator Escudero asked whether the Nasulo Geothermal Project of the PNOC-EDC is a committed renewable energy plant with a 20-megawatt capacity.

Senator Zubiri said that it could be one of those in the DOE’s list of prospective geothermal sites with about 510-megawatt potential capacity, which includes Mt. Natib in Bataan; Mabini, Batangas; Montelago in Oriental Mindoro; Manito in Albay; Tanawon-Rangas in Sorsogon; Biliran and Cabalian in Southern Leyte; Dawin in Negros Oriental; Amacan in Compostela Valley; and the North Cotabato area.

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To the observation that power generated from water resources could not be relied upon because this would be seasonal, Senator Zubiri replied in the affirmative, saying that the power supply would be intermittent because the run-of-river hydropower plants are usually rain-driven, so energy supply would be at its lowest point during the dry season. The bill, he stated, focuses on run-of-river hydropower and not on dams like the Pantabangan Dam.

Senator Escudero emphasized that in agricultural areas, water must primarily be used for irrigation purposes, and secondarily only for the operation of hydropower plants. Senator Zubiri explained that under the bill, the Board in charge of giving the incentives would make sure that there shall be no water supply problem in agricultural areas. He assured the Body that the Committee would not sacrifice the food security of the nation in favor of the passage of the bill.

With respect to wind power, Senator Escudero stated that there should be specific sites where wind turbines could be established, particularly in the eastern seaboard.

Senator Zubiri pointed out that the highest level of wind in extreme Northern Luzon can produce 3,000 to 5,000 megawatts, and that Palawan also has great potential for producing wind power as well as the Bicol and Southern Tagalog provinces.

Senator Escudero said that the bill should be expanded to cover other potential energy sources which are clean, indigenous and alternative sources as being sought by other bills. He disclosed that Indonesia relies 100% on indigenous energy; China, about 90%; and Malaysia, about 73%.

Senator Zubiri said that he was open to expanding the bill to include biomass, pointing out that methyl gas, when used properly, can be used to energize piggeries and poultry farms in the country. He expressed willingness to discuss with Senator Escudero on how the bill can be strengthened.

Asked if the bill also covers hybrid and cogeneration systems which are not solely renewable, Senator Zubiri answered in the affirmative, saying that coconut husks, rice hulls and bagasse can be utilized as energy sources.

Senator Escudero stated that although the Committee on Ways and Means did not conduct a

separate hearing on the bill, he is of the position that indigenous power sources should not be unreasonably taxed, only imported fuels and energy sources. He believed that this would hasten the approval of the bill.

Senator Zubiri welcomed the suggestions and assured the Body that he would discuss the matter with Senator Escudero and the other sponsors of the bill in the hope of coming up with incentives for the host communities.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Pangilinan acknowledged the presence in the gallery of the following mayors from Misamis Oriental: Danilo Lagbas, Armando Elarmo, Redentor Salvaleon, Enerito Acain, Oliver Ubaub, Mario Jagus, Wellie Lim, Lilith Jabla, Dennis Roa, Dixon Yasay, Emilita Almirante, Rodulfo Buray, Perlita Espero, Manuel Pamisa Jr., Santiago Ocot Jr., Sulpicio Uyuangco, Romeo Gue, Rommel Maslog, Redentor Jardin, and Ruth Guingona.

Senator Pro Tempore Ejercito Estrada welcomed the guests to the Senate.

INTERPELLATION OF SENATOR ROXAS

Asked by Senator Roxas if the bill intends to provide fiscal incentives for the production of energy from an indigenous source, Senator Zubiri replied that the bill deals with the promotion of renewable energy (RE) from indigenous sources – solar, wind, geothermal, wave, biomass, and hydro (macro and mini) – that have been constant throughout the centuries.

Asked whether the incentive package provided for in the bill is static or adjustable, depending on the energy source that is being tapped, Senator Zubiri replied that the incentive package would be available to all. He indicated that he wanted to introduce in the bill a “feed the entire system” scheme whereby energy would be fed into the system with the same prevailing market rates as this would have given preferential treatment to investors in RE sources. He affirmed that it would be the same package for any type of RE produced, whether in terms of income tax, duty-free importation of capital equipment, accelerated deduction on depreciation, or net operating loss carry forward. *AE*

As regards the relative cost of the energy sources, Senator Roxas said that he was wary of unintended consequence when providing the same economic or incentive package for each energy source because each source, in fact, has different capital expense (capex) and operating expense requirements. In effect, he said, Congress might be giving incentives to one kind of energy source more than the other kinds. He asked the Committee to request the Department of Energy (DOE) to provide the Body with data on the capital expense for every megawatt per energy source, as well as the operating expense for each energy source. He proposed that the Committee submit a matrix on the capex and opex of the energy sources so that the Body could see the impact of the standardized incentive package for each energy source.

Senator Zubiri agreed to the request. He affirmed that initially it is expensive because the installation cost for a wind farm is US\$1.5 million per megawatt; for a solar farm, US\$3,000 per kilowatt; for geothermal, US\$2,000 per kilowatt. On the other hand, he said, the capex of a coal-fired power plant is only about \$1,000 per kilowatt or \$1,000,000 per megawatt; hence, putting up a 100-megawatt facility would only cost the government about \$100 million. However, he believed that in the long run, there would be diminishing cost because the indigenous energy sources are free, and most likely, the return on investment (ROI) would be realigned within ten years. He noted that many fossil-fueled power plants continue to rely on imported fossil fuels, thereby increasing the cost through the years.

Senator Zubiri agreed to the observation that government should be cautious in determining the energy mix which might turn out to be more costly and that mitigating steps should be undertaken to reduce the overall cost of power. He also agreed that there must be a cost analysis and gave assurance that the Committee would provide the requested data.

INTERPELLATION OF SENATOR AQUINO

Noting that the cost of producing energy is passed on to consumers and that the bill proposes to reduce the share of government in the earnings of geothermal plants from 60% to 2%, Senator Aquino queried if there is any provision in the bill that ensures that the cost reduction would benefit the consumers. Senator Zubiri stated that in order to

attract private investments in geothermal energy, incentives would be offered such as reducing the government's share from 60% to 2%. He said that no private investor in his right mind would settle for 40%, while 60% of his earnings would go to the government. He agreed that savings in cost should be passed on to consumers for which reason, the Committee would propose an amendment at the proper time that the host communities shall benefit from the reduction in the percentage share of the government. He bared that out of their earnings, the geothermal plants pay the government 60% and keep 40% for operation and because they operate sometimes at a loss, they have to pass on the cost to consumers.

Asked whether existing geothermal plants could not avail of the incentive of reduced government share, Senator Zubiri clarified that under the present bill, they are not covered.

On the concern that the enactment of the bill into law would put existing geothermal plants at a price disadvantage because they shall be competing with newer energy producers with better efficiencies under two different tax regimes, Senator Zubiri suggested that an amendment be made at the proper time to include existing geothermal power plants so that the entry of new players would not put them at a disadvantage.

Senator Aquino observed that Section 1 of the bill does not identify any specific agency that shall formulate a renewable energy program.

As regards the agency to plan out and validate the renewable energy programs, Senator Zubiri stated that Section 2 (c) of the bill establishes the necessary infrastructure mechanism that would carry out the mandate of the proposed Act and other existing laws; and Section 18 provides for the creation of the National Renewable Energy Board (NREB) composed of the secretary or designated under-secretary of the Department of Energy as chairman, secretaries, undersecretaries or assistant secretaries of the DTI, DOF, and DENR; presidents or duly designated representatives of NPC, TRANSCO, and PEMC; and one representative each from RE developers, GFIs, private distribution utilities, electric cooperatives, suppliers, and nongovernmental organizations duly endorsed by their respective industry associations and appointed by the President of the Republic of the Philippines. He also clarified that the

renewable energy bill is entirely different from the renewable fuels bill because it is actually the Biofuels law which is being implemented by the National Biofuels Board tasked to develop and secure areas for biofuel as well as food production. He assured Senator Aquino that there would be a board to look into the development as well as pitfalls of the renewable energy programs. He said that renewable energy projects have been beneficial both to the environment and the people.

Senator Zubiri adverted to studies showing that communities hosting coal-fired plants and bunker-fuel plants have brought down the resistance of people causing infertility, mercury poisoning from the air, acid rain and global climate change caused by the increased carbon in the atmosphere. He believed that the NREB should document the benefits and costs of implementing the renewable energy programs.

Adverting to Section 24 on the Official Development Assistance (ODA), allowing the privatization of RE facilities to be eligible for foreign loans and grants without being evaluated by the NEDA Board, Senator Aquino stated that Republic Act 8182, the ODA Act of 1996, specifically provides that the ODA shall be used for equitable development and shall not be availed of or utilized directly or indirectly for projects mandated by law to be served by the private sector and financing or private corporations which has access to commercial credits. Furthermore, he said that under the same Act, NEDA shall ensure that the ODA obtained would be previously identified national-priority projects which are urgent or necessary. He stressed that the ODA shall not be accepted or utilized solely because of its availability, convenience or accessibility.

Asked why the bill allows an entity to avail of the ODA without being scrutinized by the NEDA Board, Senator Zubiri expressed willingness to accept amendments at the proper time to make the measure conform with the existing laws.

Regarding the ZTE Broadband deal which is currently being investigated by the Senate, Senator Aquino said that had it not been scrutinized by the NEDA, the government may have already started paying the expense incurred by the project. Moreover, he pointed out that ODAs are not all grants but mostly loans that would be paid by the Filipino people; hence, there should be an independent body

that should look into the validity of various proposals under the program.

INTERPELLATION OF SENATOR MADRIGAL

Initially, Senator Madrigal requested the accounting and geographical breakdown of the investment capital flowing into the renewable energy project mentioned on page 2 of Senator Defensor Santiago's speech.

Senator Zubiri replied that he would ask the Committee on Energy and the staff of Senator Defensor Santiago to provide the Body with the data.

Senator Madrigal doubted if there is a link between the level of indigenous energy component in power and the electricity rates as she noted that in 2002 industrial consumers in the Philippines paid more for power than the Thais, the Malaysians, the Chinese, the Indonesians and the Vietnamese. She expressed concern that sovereignty or control over indigenous renewable energy resources could be given to foreigners as what happened to the Malampaya natural gas fields. She requested the Committee to submit a comparative matrix showing the energy mix of Thailand, Malaysia, China, Indonesia and Vietnam, as well as the location of all geothermal plants in the country, their ownership and the number of years they have been in operation. She noted that the governments of these countries have a 2% share in income but they were still able to lower their energy rates. She observed that the instant bill lumps all sources of renewable energy, even hydroelectric and geothermal from which the country has derived energy for many years.

As regards the Malampaya natural gas fields, Senator Zubiri stated that it has been in operation for five years and it does not fall under the coverage of the Renewable Energy Act, natural gas being a non-renewable energy resource. For her part, Senator Madrigal disclosed that studies show that the Philippines exports the natural gas extracted from Malampaya and buys it back or re-imports it.

With respect to geothermal reserve, Senator Zubiri clarified that the reserve is unlikely to run out as long as the volcanoes remain active. He gave assurance that the Committee would furnish a report on the operation of Malampaya and a study on the geothermal reserve.

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Senator Madrigal pointed out that Malaysia, China and Vietnam are very strict when it comes to the issue of sovereignty over natural resources. She asked whether the Committee could justify giving up the country's sovereignty over its indigenous renewable energy sources and whether the Filipinos would benefit from it.

At this juncture, Senator Madrigal suspended her interpellation until the submission of the requested documents.

As regards the foreign ownership of RE projects, Senator Zubiri clarified that under the Constitution, foreigners are only allowed 40% ownership. He stated that the Committee would be willing to consider an amendment strengthening the country's sovereignty over the indigenous RE sources. In reaction, Senator Madrigal stated ownership of natural resources can be transferred through many ways such as in the case of Aramco, Petron and Malampaya. She clarified that her concern is that incentives would be offered to foreigners who might end up controlling the renewable energy source.

INTERPELLATION OF SENATOR LACSON

Senator Lacson asserted that even assuming that the government lives up to the projection of the Department of Energy to provide up to 40% of the country's primary energy requirements over a 10-year period, starting in 2013, by using renewable energy, it would not bring down the cost of electricity since the government is hostage to the sovereign guarantee provisions of the 38 power purchase agreements (PPAs). Senator Zubiri clarified that the bill promotes open access so that Caviteños, for example, could choose to put up a wind power project and, in effect, bypass the PPAs which are quite expensive. Nonetheless, he gave assurance that the Committee would provide a more detailed answer in the next day's session.

Senator Lacson agreed. However, he expressed concern that the government would still pay the independent power producers because of the sovereign guarantee provisions in the PPAs.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2046

Upon motion of Senator Pangilinan, the Body suspended consideration of the bill.

REPORT OF SENATOR PIMENTEL

Upon motion of Senator Pangilinan, there being no objection, the report of Senator Pimentel on his attendance in the International Conference on the Presidential Form of Government held in Mexico was deemed read into the Record of the Senate.

Following is the full text of the report:

INTERNATIONAL CONFERENCE ON THE PRESIDENTIAL FORM OF GOVERNMENT IN MEXICO CITY

At no expense to the Senate, I attended a three-day (plus three days more of travel time) International Conference in Mexico City on the subject of the Presidential Form of Government.

The conference was organized by Institute for Democracy and Electoral Assistance (IDEA) and the *Universidad Autonoma de Mexico*.

The panel experts included Dr. Hector Fix-Fierro, Dr. Andrew Ellis, Spanish Ambassador to Mexico Carmelo Angulo, Dr. Pedro Salazar (Mexico), Dr. Jean Claude Colliard (France), Dr. Abdou Khadre Lo (Senegal), Dr. Carlos Huneeus (Chile), Dr. Etsi Yudhini (Indonesia), Dr. David Usupashvill (Georgia), Dr. Virgilio Afonso da Silva (Brazil), Dr. Antonio Ma. Hernandez (Argentina), Dr. Jose Maria Serna (Mexico), Dr. Daniel Sovatto (Argentina), Senators Feblo Beltrones, Santiago Creel and Carlos Navarrete (Mexico), Dr. Jorge Carpizo (Mexico), and Dr. Diego Valades (Mexico).

While the conference was angled to help the ongoing debate in Mexico on the reform of government institutions in the country, I was asked to do a critique of the presidential form of government.

I did as asked but with focus on our experience in the Philippines. Briefly, I told the participants that we have always had a presidential form of government in the country. And that it was not working that well.

Concentration of power

I said that there was too much concentration of power in the hands of the President and that the tendency to abuse it has been too great to resist by various holders of the presidential office.

I cited instances in the past of presidential abuse (martial law) and present history (police ~~abuse~~)

dispersals of even peaceful demonstrations to express people's concerns).

Moreover, I said the concentration of the power to plan, fund and implement projects of national import in Manila, the seat of the national government, has stymied national development.

Weak institutions

Much of the difficulties we have with the presidential form of government, I said, stems from weak political institutions that produce weak political parties, weak legislatures, and a weakened judicial system.

Hence, I said that a group of legislators in our country is planning to amend or revise our Constitution so that we may have a presidential form with a federal system of government.

Discussion followed my presentation.

No silver bullet

To sum up my reply to the questions, I said that unlike my favorite comic character when I was a young boy, the Lone Ranger, who has a silver bullet to end the reign of bad men, there is no magic prescription in the form of government to solve all the problems of any nation. Each country must try to adapt its own form of government to suit the needs of the people. The bottom line, I said, was that our peoples' basic rights and liberties, especially human rights, have to be respected whatever the form of government we adopt.

I attach a copy of my speech to the conference as Annex A of this report.

I pray that it be considered read into the record of this Chamber.

Addenda:

1. Mexico also has a spate of extrajudicial killings, particularly of journalists.

The latest of the killings took place while I was there. Bonifacio Cruz Santiago, publisher of the weekly *El Real*, and son, Alfonso Cruz, were gunned down by unknown assailants.

It was reported that in the past seven years, 36 journalists had been killed in Mexico. In the last 30 years, 50 journalists have been shot in the country.

2. The Mexican constitution requires congressional approval of presidential travels abroad.

When I was there, President Felipe Calderon was allowed by the Congress to travel to the U.S.

In a famous rebuff, President Vicente Fox was refused permission to travel to Australia and Vietnam in 2006.

3. The Mexican Senate was considering amending their laws to allow more competition in its broadcast industry which had been dominated by a small number of companies (Televisa and TV Azteca, particularly).

4. The Mexican restaurants price their menus in dollars.

I almost fainted when I was billed \$129 for a simple breakfast (the first I had in Mexico).

Before the end of the day, I recovered my equanimity when a Filipino diplomat told me that the \$ sign was to be read in Mexican pesos. The U.S. dollar was supposed to have two slashes like this: ₱

5. On the personal level, may I put on record that on *the way home*, I broke the long trip from Mexico City by a three day stop-over in LA to meet with Filipino residents there. I also wanted to rest my back after an excoriating 25-hour travel (airport delays included) to Mexico City from Manila via Tokyo and consult a doctor friend.

While I was away, Engr. Jun Lozada surfaced to testify before the Blue Ribbon Committee investigating the ZTE deal. I apologize to our colleagues and to the people for my absence in the week of Lozada's revelations. I had left before knowing that the Committee would have such an important witness.

THE PRESIDENTIAL FORM OF GOVERNMENT IN THE PHILIPPINES: A CRITIQUE

I would like to thank the international IDEA and the National Autonomous University of Mexico for kindly inviting me to present a critique of the presidential form of government based on our experience in the Republic of the Philippines.

Historically, we have had no other form of government than the presidential one that has governed us since we recovered our independence from the United States of America in 1946.

Indeed, even before we got back our independence, as a Commonwealth under the

protection of the U.S. from 1935 until 1946, we had a president as the head of the government and of the State. Earlier, as our forefathers fought for our freedom as a nation against Spain, they also tried to institute a government that was headed by a president.

Today, we find the presidential form of government hobbled by certain institutional weaknesses.

Tripartite system

Our Constitution mandates that we follow a tripartite system of governance where the powers of government are distributed among three major branches, namely: the Executive Department headed by the President; the Legislative Department which has two houses, the House of Representatives and the Senate; and the Judiciary on top of which is the Supreme Court.

The three branches are supposed to be co-equal. And they are supposed to check one another so that official abuses are curbed and the rights and liberties of the people are protected.

Weak institutions

In our experience, however, weak political parties, weak judicial structures and weak legislatures have all contributed to the emerging phenomenon of an imperial presidency. This characterization of the presidency as an imperial one simply means that in the context of the political structure now obtaining in our country, the president tends to overwhelm the other two co-equal branches, the legislature and the Judiciary.

The weak political parties fail to act as a sieve against the surfacing of mediocre personalities contending for the presidency. Instead of insuring that only the best and the brightest should have the opportunity to serve as the president of the nation, they cater to the passions of the day and abet the election of the person who can best deliver patronage benefits to them.

The weak parties also produce weak members of the legislature who tend to gratify the base wishes of their constituents rather than work for the good of the nation.

Dominant force

Negatively, the cumulative effect of the weaknesses adverted to makes the president not

only *primus inter pares* among the supposedly co-equal branches of government but the dominant force in the entire political spectrum of the country.

And positively, the constitutional power of appointment the president has over the major functionaries of government from the cabinet ministers or secretaries as we call them back home to the ambassadors, to the officials of constitutional bodies like the Ombudsman and the Commission on Human Rights, to military officers from the rank of colonel to the top police officers to the regional directors running government offices and to the directors of government-owned corporations makes him or her a superpower in the political firmament of the nation. In a word, the president has lots of favors to hand out to whoever is willing to bow down to his or her wishes. Under present circumstances, and in a developing country like ours, sad to say, wheeling and dealing for personal advantage tend to become the norm to land a government position rather than the exception.

Since it is the president, for example, who appoints all members of the Judiciary, from the lowest trial court to the Supreme Court, it is not surprising that sometimes the exercise of judicial power gets tainted by political pressure.

On paper, the legislature is vested with the power to check presidential appointments but because of the weaknesses earlier adverted to by and large the president gets to appoint his or her personal supporters to choice positions in the political arm of the government or even to judicial seats.

The president and legislature

In trying to explain the dynamics of the push and pull of power between the president and the legislature, we have to clarify that the Republic of the Philippines is a multiparty democracy under a presidential form of government.

Because the president is the dominant force in the nation's political spectrum, he or she determines which bloc or coalition of blocs becomes the majority party in the legislature. Whoever is president, in fact, becomes a magnet that draws lawmakers from whatever party to his or her political party or coalition which thus becomes the majority or the ruling party.

The fact that the president has the power to create the majority in the legislature is bolstered mainly by his or her power over the purse. This

is true even if under our Constitution, it is the legislature that enacts a national budget. The moneys, thus, appropriated may, however, only be disbursed by authority of the president. In our case now, as opposition members of the Senate, we find the releases of funds for projects that we recommend difficult to come by. It was not so before the present administration.

Impact of Constitution

To repeat, the Constitution is supposed to limit the powers of the presidency in the same way that it is expected to regulate the legislature. But because of the flaws or weaknesses of our institutions, the president has emerged as the more dominant of the two.

Example

To cite one example: in the past year alone, there had been several attempts to impeach the president, to no avail. The incumbent was able to subvert the impeachment process by the use of funds and pressure on weak-kneed and gullible members of the House.

Another example

Then, there is a constitutional provision that is being manipulated by the President to suit her ends.

The President is the Commander-in-Chief of all armed forces of our country and whenever it becomes necessary, he or she may call out the armed forces to prevent or suppress lawless violence, invasion or rebellion.

In the recent past, the president had called out the armed forces to the capital city of Manila ostensibly to suppress lawless violence, invasion or rebellion even if actually non-existent. And when concerned citizens contest such calls, the Judiciary felt reluctant to censure her move especially when at the time the decision was forthcoming, the soldiers were made to return to the barracks.

Public administration

The President has full powers to restructure the Executive department that under the Constitution is under her "control and supervision." In general, that means that she may reassign or reduce the personnel of the various cabinet departments and realign their budgets. The incumbent has even tinkered with the legal functions of certain offices attached to certain departments by transferring them to other offices.

As a result, public administration in the Republic is prejudiced by the political maneuverings of the President and her allies.

Bureaucratic professionalism suffers, and public administration less effective.

In my view, public administration deals mainly with the delivery of basic services to the people.

By its very nature and considering the vastness of our archipelagic country, public administration to be effective must not be concentrated in the hands of one person or office centrally located in Manila but devolved to the regions.

The tendency, however, in the country today is for the delivery especially of major services to be done only upon orders of the President and her underlings in the Cabinet who hold office in Manila.

Thus, we see much dissatisfaction all over the nation. Poll surveys in the last year alone show that the President's satisfaction rating has constantly fallen.

Conclusion

I suppose that the problems we face in the country today are not merely due to the presidential form of government. It has also to do with the kind of people that we elect to be our leaders. Somebody has said that a people deserve the government they elect.

Nonetheless, because we have an archipelagic country, because we have various ethnic peoples, because we have a huge Christian population and relatively large Muslim communities, because we have diverse languages, and because the presidential form of government does not appear workable in our country, there is an outcry to try the other viable system of government that some countries find workable. That is the federal system of government.

There is a lot of obstacles to overcome, objections to address, and questions to answer regarding the viability of the federal system. But, unless the presidential type of government that we have in the country would adequately respond to the needs of the people and in the immediate future, I guess its days are numbered.

SPECIAL ORDER

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of Committee Report No. 35 on Senate Bill No. 2009

from the Calendar for Ordinary Business to the Calendar for Special Orders.

**COMMITTEE REPORT NO. 35
ON SENATE BILL NO. 2009**

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2009 (Committee Report No. 35), entitled

AN ACT FURTHER EXPANDING THE ORGANIZATIONAL STRUCTURE OF THE COURT OF TAX APPEALS, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Pangilinan, only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

Thereupon, the Chair recognized Senator Escudero for the sponsorship.

**SPONSORSHIP REMARKS
OF SENATOR ESCUDERO**

Senator Escudero requested that the explanatory notes of Senate Bill Nos. 801 and 1485, which he introduced together with Senator Revilla, be adopted as the sponsorship speeches for Senate Bill No. 2009.

Senator Escudero stated that Senate Bill No. 2009 seeks to expand the Court of Appeals by providing for additional three justices and an additional division in order that they may efficiently perform their duties and functions. He said that the bill has been endorsed by the Supreme Court through former Court Administrator Christopher O. Lock and its House counterpart bill was approved on Second Reading in the previous month.

In recognition of the need to create an additional division in the Court of Appeals and provide for additional justices, Senator Escudero informed the Body that the amount of P11.9 million has already been allocated in the 2008 budget to fund this purpose. He said that in 2004, approximately P13.7

billion was awarded in favor of the government and P4.1 billion in favor of petitioner-taxpayers.

In closing, Senator Escudero requested the Body to approve the bill which shall address the current revenue backlog of the government.

INTERPELLATION OF SENATOR PANGILINAN

Asked by Senator Pangilinan if the bill seeks to put up an additional division to address the caseload of the Court of Tax Appeals, Senator Escudero replied in the affirmative, as he explained that beginning the year 2000, an average of 250 cases were filed every year; however, from the period beginning 2004 up to last year, on the average, approximately 350 additional cases have been filed or a total of 1,500 for the last four years, or an increase of about 17% over the previous four-year period.

Stating that it was not his wish to delay the approval of the bill, Senator Pangilinan requested that he be furnished with the data on the current caseload including a status report of pending cases in the court, specifically on the length of time for it to resolve a case with finality.

Senator Escudero gave assurance that the information would be given to Senator Pangilinan but as to the data on pending cases, he said that for fiscal year 2007, the total caseload of the court was 1,176, of which 405 cases were disposed and a total of 771 cases were pending. On average, he said that the court disposes 320 cases a year but given the additional cases that were recently filed, there is no hope that it would be able to address the backlog unless a new division was created.

Senator Pangilinan recalled that in the 12th Congress, a similar measure was secondarily referred to the Committee on Justice and Human Rights which he chaired. He recalled that the Court of Tax Appeals was upgraded precisely to address tax evasion cases and thereby improve the collection efforts of the government. Finally, he said that subject to the submission of the documents, he was waiving further interpellation on the measure.

**TERMINATION OF THE PERIOD
OF INTERPELLATIONS**

There being no other reservation to interpellate, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of interpellations and proceeded to the period of amendments. *AS*

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TERMINATION OF THE PERIOD OF AMENDMENTS

There being no committee or individual amendment, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of amendments.

APPROVAL OF SENATE BILL NO. 2009 ON SECOND READING

Submitted to a vote, there being no objection, Senate Bill No. 2009 was approved on Second Reading.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2009

Upon motion of Senator Pangilinan, there being no objection, the Body suspended consideration of the bill.

ADDITIONAL REFERENCE OF BUSINESS

The Deputy Secretary for Legislation, Edwin B. Bellen, read the following matters and the Chair made the corresponding referrals:

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

Letter from the Secretary General of the House of Representatives, informing the Senate that on 5 February 2008, the House of Representatives approved the Bicameral Committee Report on the disagreeing votes on House Bill No. 3156, entitled

AN ACT CREATING THE CIVIL AVIATION AUTHORITY OF THE PHILIPPINES, AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR, AND FOR OTHER PURPOSES

To the Archives

BILL ON FIRST READING

Senate Bill No. 2089, entitled

AN ACT CREATING THE NATIONAL COMMISSION ON MUSLIM FILIPINOS DEFINING ITS POWERS,

FUNCTIONS AND RESPONSIBILITIES AND APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Juan Miguel F. Zubiri

To the Committees on Cultural Communities; Civil Service and Government Reorganization; and Finance

RESOLUTION

Senate Concurrent Resolution No. 3, entitled

CONCURRENT RESOLUTION FURTHER AMENDING THE LEGISLATIVE CALENDAR OF THE FIRST REGULAR SESSION OF THE FOURTEENTH CONGRESS OF THE PHILIPPINES

Introduced by Senator Pangilinan

To the Committee on Rules

SENATE CONCURRENT RESOLUTION NO. 3

Upon motion of Senator Pangilinan, there being no objection, the Body considered Senate Concurrent Resolution No. 3, entitled

CONCURRENT RESOLUTION FURTHER AMENDING THE LEGISLATIVE CALENDAR OF THE FIRST REGULAR SESSION OF THE FOURTEENTH CONGRESS OF THE PHILIPPINES.

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

REMARKS OF SENATOR PANGILINAN

Senator Pangilinan stated that the House of Representatives wished to amend the Legislative Calendar and that Senate Concurrent Resolution No. 3 reflected the changes.

He urged the Body to adopt the resolution. *AP*

**ADOPTION OF SENATE
CONCURRENT RESOLUTION NO. 3**


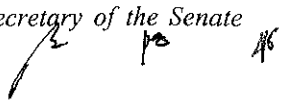
I hereby certify to the correctness of the foregoing.

Upon motion of Senator Pangilinan, there being no objection, Senate Concurrent Resolution No. 3 was adopted by the Body.

ADJOURNMENT OF SESSION

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

It was 6:25 p.m.


EMMA LIRIO-REYES
Secretary of the Senate


Approved on February 20, 2008