



REPUBLIC OF THE PHILIPPINES  
**Senate**  
Pasay City

# Journal

**SESSION NO. 90**  
Tuesday, May 31, 2011

**FIFTEENTH CONGRESS**  
**FIRST REGULAR SESSION**

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Tuesday, May 31, 2011

**CALL TO ORDER**

At 3:29 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

**PRAYER**

Sen. Jinggoy Ejercito Estrada led the prayer, to wit:

Ama naming makapangyarihan,

Ikaw ay aming pinupuri at pinasalamatan sa lahat ng pagkakataon na kami ay Iyong pinagpapala.

Nawa Panginoon, basbasan Mong muli ang pagbubukas ng Kapulungang ito at sa pagsisimula ng aming mga gawain ukol sa pag-aakda ng batas, maalala namin na ang aming mga gawain ay para sa ikabubuti at ikauunlad ng aming bansa.

At tulad ni Hesukristo na nag-alay ng Kanyang sarili para sa kaligtasan ng lahat, nawa'y amin ding kalimutan ang aming sarili, itaas ang antas ng aming mga interes at mga prinsipyo upang tunay na makabuti at makatulong sa aming bayan.

Ibahagi Mo ang Iyong banal na Espiritu Santo upang kami ay maging tapat at matatag sa lahat ng aming mga haharapin ngayon at sa darating pang panahon.

Ang lahat ng ito ay aming samo't dalangin sa ngalan ng Iyong Anak na si Hesus, na aming tagapagligtas.

Amen.

**ACKNOWLEDGMENT  
OF THE PRESENCE OF GUESTS**

At this juncture, Senate President Enrile acknowledged the presence in the gallery of Veronica Pedrosa of Al Jazeera, and welcomed her to the Senate.

**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:

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

With 15 senators present, the Chair declared the presence of a quorum.


Senators Angara, Cayetano (P), Guingona, Trillanes and Villar arrived after the roll call.

Senators Cayetano (A) and Legarda were on official mission.

Senator Recto was absent.

**MANIFESTATION OF SENATOR SOTTO**

Senator Sotto announced that the session would



be suspended after the approval of the Journal to allow the Members to go into caucus.

#### **APPROVAL OF THE JOURNAL**

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 89 (May 30, 2011) and considered it approved.

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

#### **MANIFESTATION OF SENATOR PANGILINAN**

Senator Pangilinan stated that he had placed on each senator's desk green chili peppers which were harvested that day from his farm. He disclosed that last year, he went into backyard farming on a small plot of land that he planted with a variety of vegetables.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Sotto, the Chair suspended the session.

*It was 3:33 p.m.*

#### **RESUMPTION OF SESSION**

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

#### **ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS**

At this juncture, Senator Sotto acknowledged the presence in the gallery of the families of the victims of involuntary disappearances and a delegation from the Asian Federation against Involuntary Disappearances.

The Senate President Pro Tempore welcomed the guests to the Senate.

#### **REFERENCE OF BUSINESS**

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

### **BILL ON FIRST READING**

Senate Bill No. 2848, entitled

**AN ACT CREATING A NATIONAL STUDENT LOAN BOARD TO IMPLEMENT A NATIONAL STUDENT LOAN PROGRAM FOR POST SECONDARY, TERTIARY AND POST GRADUTE EDUCATION, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES**

Introduced by Senator Villar

**To the Committees on Education, Arts and Culture; Ways and Means; and Finance**

### **RESOLUTIONS**

Proposed Senate Resolution No. 497, entitled

**RESOLUTION DIRECTING THE SENATE COMMITTEE ON ACCOUNTABILITY OF PUBLIC OFFICERS AND INVESTIGATIONS (BLUE RIBBON) TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ALLEGED MISFEASANCE, MALFEASANCE, AND NONFEASANCE IN THE PHILIPPINE PRISON SYSTEM WHERE PRISON OFFICIALS OF THE BUREAU OF CORRECTIONS, BUREAU OF JAIL MANAGEMENT AND PENOLOGY, AND NATIONAL BILIBID PRISONS GRANT SEVERAL INMATES AND CRIMINALS SPECIAL LIVING ARRANGEMENTS AND PRIVILEGES AND EVEN FACILITATE THEIR ESCAPE ALLEGEDLY IN EXCHANGE FOR BRIBE MONEY**

Introduced by Senators Guingona III and Lacson

**To the Committee on Accountability of Public Officers and Investigations**

Proposed Senate Resolution No. 498, entitled

**RESOLUTION DIRECTING THE COMMITTEES ON AGRICULTURE AND FOOD; ENVIRONMENT AND**

*AKC JB*

NATURAL RESOURCES; AND CLIMATE CHANGE TO CONDUCT AN IMMEDIATE INVESTIGATION, IN AID OF LEGISLATION, ON THE CAUSE OF THE MASSIVE FISHKILL IN TAAL LAKE

Introduced by Senator Legarda

**To the Committees on Agriculture and Food; and Environment and Natural Resources**

### COMMUNICATIONS

Letter from the Commission on Population, Department of Health, dated 12 May 2011, furnishing the Senate with copies of SIGNATURES DECLARING SUPPORT FOR THE IMMEDIATE PASSAGE OF THE BILL ON RESPONSIBLE PARENTHOOD, REPRODUCTIVE HEALTH, AND POPULATION AND DEVELOPMENT.

**To the Committees on Rules; and Health and Demography**

Letter from the National Labor Relations Commission, Department of Labor and Employment, dated 17 May 2011, submitting to the Senate the 2010 PERFORMANCE REPORT OF THE NATIONAL LABOR RELATIONS COMMISSION (NLRC) for FY 2010.

**To the Committee on Labor, Employment and Human Resources Development**

Letter from the Department of Budget and Management, dated 24 May 2011, forwarding to the Senate a copy of EXECUTIVE ORDER 43, "PURSUING OUR SOCIAL CONTRACT WITH THE FILIPINO PEOPLE THROUGH THE REORGANIZATION OF THE CABINET CLUSTERS."

### COMMITTEE REPORT

Committee Report No. 40, prepared and submitted jointly by the Committees on Health and Demography; Finance; Local Government; Labor, Employment and Human Resources Development; Youth, Women and Family Relations; and Banks, Financial Institutions and Currencies, on Senate Bill No. 2849, with Senators Legarda, Trillanes IV, Marcos Jr., Cayetano (P), Angara,

Recto, Zubiri, Ejercito Estrada, Lapid, Villar, Escudero, Revilla Jr., Drilon and Osmeña III as authors thereof, entitled

AN ACT AMENDING REPUBLIC ACT NO. 7875, OTHERWISE KNOWN AS THE NATIONAL HEALTH INSURANCE ACT OF 1995, AS AMENDED, AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos. 4, 18, 55, 58, 143, 189, 549, 726, 1012, 1222, 1340, 1971, 2126, 2130, 2140, 2653, and 2714.

Sponsors: Senators Cayetano (P.), Drilon, Marcos Jr., Ejercito Estrada and Osmeña III

**To the Calendar for Ordinary Business**

### ADDITIONAL REFERENCE OF BUSINESS

#### COMMITTEE REPORTS

Committee Report No. 41, prepared and submitted jointly by the Committees on Government Corporations and Public Enterprises; Civil Service and Government Reorganization; Education, Arts and Culture; Local Government; Ways and Means; and Finance, with Senators Trillanes IV, Ejercito Estrada, Villar, Defensor Santiago, Escudero, Recto, Revilla Jr., Lacson, Angara, Marcos Jr. and Drilon, on Senate Bill No. 2854 as authors thereof, entitled

AN ACT INSTITUTIONALIZING THE RIGHTS OF GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS) MEMBERS, PROVIDING THEM ADDITIONAL REPRESENTATION IN THE GSIS BOARD, ENSURING PROMPT PAYMENT OF ALL THEIR BENEFITS AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos. 194, 285, 479, 488, 585, 906, 1132, 1251, 1316, 1831, 2090, 2093, 2106, 2129, 2276, 2490, 2784, 2785 and 2797, taking into consideration Proposed Senate Resolution No. 23.

Sponsor: Senator Recto

### To the Calendar for Ordinary Business

Committee Report No. 42, submitted jointly by the Committees on Local Government; and Constitutional Amendments, Revision of Codes and Laws, on House Bill No. 4146, introduced by Representatives Sema, *et al.*, 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,

taking into consideration Senate Bill No. 2756 and the Privilege Speech of Senator Zubiri on ARMM Election on March 21, 2011, recommending that they be transmitted to the Archives.

Sponsor: Senator Marcos Jr.

### To the Archives

#### PRIVILEGE SPEECH OF SENATOR MARCOS

Availing himself of the privilege hour, Senator Marcos reported to the Chamber the findings of the Committee on Local Government on the bill seeking to synchronize the ARMM elections with the national and local elections, specifically Committee Report No. 42 on House Bill No. 4146 and Senate Bill No. 2756.

He stated that as provided for in the Rules of the Senate, when an adverse committee report, as in the case of Committee Report No. 42, is filed, it is automatically sent to the Archives. However, he said that given the fact that the subject has been of such

great importance and great interest not only to the public but also to the other senators, he deemed it necessary to avail himself of the privilege hour and go through the main findings of the report to give the senators a good idea about the discussions and the logic behind the conclusions of the Committee, to wit:

1. The appointment of officers-in-charge by the President is contrary to the principle of autonomy which is guaranteed by the Constitution.

Senator Marcos pointed out that ARMM autonomy is clearly mandated in Article X, Sections 1, 2, and 18 of the Constitution, viz:

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 2. The territorial and political subdivisions shall enjoy local autonomy.

Section 18. The Congress shall enact an organic act for each autonomous region with the assistance and participation of the regional consultative commission composed of representatives appointed by the President from a list of nominees from multisectoral bodies. The organic act shall define the basic structure of government for the region consisting of the executive department and legislative assembly, both of which shall be elective and representative of the constituent political units. The organic acts shall likewise provide for special courts with personal, family, and property law jurisdiction consistent with the provisions of this Constitution and national laws.

On the argument that the President has the power of general supervision over autonomous regions which allows him to appoint officers-in-charge in a hold-over capacity in the event of the cancellation of the ARMM elections, Senator Marcos pointed out that precisely by virtue of that power, the President can ensure that the officials and entities in the ARMM are following the law as written, and not to change it. He averred that the power of general supervision over LGUs and autonomous regions does not cover appointment and removal of elective officials. Furthermore, he also believed that Congress may not pass a law increasing the President's power of general supervision.

Commenting on the opinion of the Department of Justice (DOJ), which quoted the case *Marcos vs. Manglapus*, that the power of the President to appoint interim officials may be justified under the President's so-called residual power, and that the statutory provision on the appointment power of the President of ARMM officers-in-charge is unnecessary, Senator Marcos maintained that such opinion would not apply in the case of the ARMM because the President's residual powers could only be exercised in case of a vacancy of an elective position due to the incumbent's death, retirement or illness. He noted that the two bills had invoked the President's so-called residual powers by deliberately creating the vacuum through the postponement of elections, a matter which, to him, is unconstitutional and contrary to law.

2. House Bill No. 4146 and Senate Bill No. 2756, in effect, amend R.A. No. 9054 and do not merely amend R.A. No. 9333 which has not been subjected to any plebiscite in any of the postponements.

Senator Marcos argued that the two bills do not merely seek to amend R.A. No. 9333 but ultimately seek to amend R.A. No. 9054 (Organic Law) because a scrutiny of the entire statutory construction of the bills would reveal that the statute and its amendments should be read together as a whole, thereby making the amendment a part of the original statute as if it had always been contained there.

He added that although a two-thirds vote was attained in the House of Representatives, there has never been any plebiscite in any of the previous postponements of the ARMM elections. He said that the fact that R.A. No. 9333 was not submitted to the people through a plebiscite in 2004 cannot be considered as a valid precedent, and that if the Body were to accept such position, there would no longer be enough time for the August 8 elections because plebiscites should not be held earlier than 60 days after the approval of such amendment or revision.

3. The reforms in the ARMM can be effectively instituted by officials to be elected by the people on August 8, 2011.

Senator Marcos said that it is clear to the Committee that the desire for reforms and the right of suffrage are not inconsistent with one another. He noted that it has never been explained properly how the cancellation of elections and the appointment

of officers-in-charge would somehow lead to the reforms that the ARMM needs. He maintained that reforms may still be achieved without necessarily negating the people's right of suffrage.

4. The mandate through an electoral process is a fundamental element of democracy and autonomy. Any planned reforms should be pursued in accordance with the principle of democracy and autonomy. This is the essence of the long-standing doctrine that the Philippines is a government of laws and not of men.

Senator Marcos said that the Committee's finding is highlighted further by the fact that what is being sought is the cancellation of elections in an autonomous region, an idea that would likewise be totally unacceptable to any local government in the Philippines, for that matter, as if to float the idea that elections at any time could be postponed.

5. The main reasons for the postponement of elections either have already been corrected by Comelec or are within the power of the national government to guarantee.

Senator Marcos disclosed that in hearings conducted in Manila and Marawi City, the Committee asked Comelec about its preparedness for the ARMM elections and if it had done all the things needed to be done to answer the criticisms that the electoral process in ARMM is highly flawed, subject to abuse and the voters' lists are greatly suspect, and in response, the Comelec reported that 90,000 names had already been deleted from the list of ARMM voters for reasons that some were deceased, some were named twice, some did not come from ARMM and so on. He stated that Comelec further reported that the process of gathering biometric data from each voter was 85% to 90% complete which, he noted, was in contrast to the completion rate of about 30% for the rest of the Philippines. In terms of being able to ascertain that there would be fair and peace elections in the ARMM, he said, Comelec has done more in ARMM than in other parts of the country.

Senator Marcos also noted that the other reason given for the synchronization of election is to save money. He disclosed that then Comelec Chairman Jose Melo had told him that the estimated expenses for the ARMM election is about P1.7 billion but the Comelec had savings of P2 billion from the last

*Handwritten initials*

elections; thus, it is not necessary to find extra funds for the ARMM elections.

During this time of financial difficulty, he asserted that if the argument that synchronizing the election would save the government money would be followed, logic dictates that all elections be cancelled and thus save P12 billion to P14 billion in election expenses. But, he cautioned, this is a completely anathema to the system under which the country operates.

6. Revisit the synchronization of elections only after the attainment of electoral and political stability in the region.

Senator Marcos pointed out that the ARMM elections are particularly violent and prone to abuse and until there is evidence that political and electoral reforms have been effective, only then should government think of synchronizing the ARMM elections with the rest of the country.

He explained that in the Committee Report, he did not use the word "postpone" but "cancel" as "postponement" implies that a date is being moved back which is not the case in the ARMM elections because actually, they are being cancelled with the elective positions being filled up by appointees of the President. Reform in the ARMM, he pointed out, is one of the reasons stated in the proposals because in the consultations with officials, stakeholders, entities and even private individuals, it was established that as an organization, ARMM was indeed in need of structural and fundamental reforms. Such being the case, he said that it is not clear how the proposal to cancel the ARMM elections and to appoint OICs to elective positions could lead to the kind of reforms that were agreed upon. He recalled that the Committee asked those who appeared before it whether cancelling the ARMM elections and appointing OICs would result in reforms, but the Committee was not convinced that they are necessary in instituting the necessary reforms. He argued that all the proposals for reform are achievable without interfering with the electoral process. He asserted that a group of elected officials with a fresh mandate from the people would have the moral ascendancy and the imprimatur of the people and they would be better and more effective in instituting reforms.

Senator Marcos stated that the authors of RA 9057 specifically desynchronized the ARMM elections from the national elections because they recognized the difficult and heated nature of the

elections in ARMM. He noted that because of the many instances of cheating, abuse and violence during the electoral process, it was deemed necessary to hold the elections separately so that all government resources could be brought to bear in the ARMM region to ensure peaceful and fair elections. In consonance therewith, he reiterated the Committee recommendation that until there are concrete evidence and objective indications of political and electoral reforms, a separate ARMM election should be conducted to allow the government to focus all its resources and energies on the political exercise.

Senator Marcos stated that he had touched upon the legal arguments on both sides of the issues of cancelling the ARMM elections, the appointment of OICs to elective positions and the synchronization of the ARMM election with the rest of the country. He noted that debates have ensued because the bills cancelling the elections are perceived by many, himself included, as removing the guarantees of ARMM autonomy enshrined not only in RA 9054 but also in the Constitution. He recalled that the fighting in Mindanao in the '70s and '80s at the height of the secessionist movement in Muslim Mindanao tore at the very fabric of the Republic and that there was a period when the separation of certain areas of Muslim Mindanao from the Republic seemed an imminent possibility. He added that negotiations were undertaken to bring peace to the region and to find answers to the causes that brought about the war and turmoil in the South.

He stressed that the central tenet to all the peace agreements adopted in the intervening years was the recognition of the cultural, historical, religious and even legal differences between Christians and Muslims, differences that required that the Muslim communities be governed and administered by officials and entities that would incorporate them in their governance.

Senator Marcos stressed that the guarantee of autonomy in Muslim Mindanao was enshrined in the law that also codified the manner in which the government should act and help operationalize it, in light of the central government's recognition that autonomy is an essential element of a true and lasting peace.

Legal arguments aside, he said that the proposals to cancel the elections and appoint OICs in the ARMM strike at the very heart of the autonomy so hard-fought for by the Muslims and so hard-won by all those injured and killed on both sides of the conflict. He stressed that the proposals before the

Body do not seek to amend the existing law. But tossing aside autonomy, he cautioned, would mean changing the national policy while ignoring the guarantees of Muslim Mindanao's autonomy which is nothing less than a repudiation of the social contract that society made with the Muslim communities in Mindanao.

He posited that the stated purposes of the bills could be achieved without throwing into turmoil the principles and practices that had been carefully crafted through the years, starting all the way back to the Tripoli Agreement and the succeeding peace agreements. He stressed that it is for this reason that the Committee on Local Government, jointly with the Committee on Constitutional Amendments, Revision of Codes and Laws, have made recommendations against the passage of House Bill No. 4146, taking into consideration Senate Bill No. 2756.

At this point, Senator Marcos invited his colleagues to examine the findings and discussions in the Committee Report, believing that the Body would be convinced that the proposals are ill-advised and untimely. In the past few months, he noted, the world has witnessed what has become known as the "Arabs' Spring" where hundreds of thousands of Arab citizens, specifically in Tunisia, Egypt, Libya, Syria, Bahrain and even in Morocco, have risen up against regimes. He said that life and limb were sacrificed to gain the right to suffrage and self-determination. He stressed that the Filipino Muslims have already gained said rights and achieved, at least partially, autonomy such that the process should not be reversed. In closing, he pleaded with his colleagues not to accompany the light of the Arabs' Spring of 2011 with the darkness of a cold winter for ARMM.

#### **MOTION OF SENATOR MARCOS**

Senator Marcos stated that under the Rules of the Senate, an adverse report is automatically sent to the Archives, but citing the fundamental importance of the subject matter, he moved that the measures be retrieved from the Archives and included in the Calendar for Ordinary Business so that the issues could be debated on and properly ventilated.

Senator Sotto concurred to Senator Marcos' motion. Senators Guingona, Osmefia, Pangilinan, and Trillanes, one after the other, likewise expressed their concurrence to the motion.

Senator Defensor Santiago seconded the motion.

#### **MANIFESTATION OF SENATOR SOTTO**

For the benefit of the public, Senator Sotto manifested that the process the Body was following was in consonance with Section 30 of the Rules of the Senate which states that:

"Sec. 30. If the reports submitted are unfavorable, they shall be transmitted to the Archives of the Senate together with the matters to which they refer, unless five (5) Senators shall in the following session move for their inclusion in the Calendar for Ordinary Business, in which case the President shall so order."

Senator Sotto pointed out that more than five Members have supported the motion, therefore, it was in order.

#### **MANIFESTATION OF SENATOR ANGARA**

At the outset, Senator Angara said that he was not objecting to the motion but that he wanted to amplify the manifestation of Senator Sotto so that that the Body would not be perceived to be reversing its position. He explained if a committee report on a measure did not recommend the action it called for, the Rules require that it be sent to the Archives; however, if the members wanted the subject matter to be debated and discussed in plenary, five of them can petition the Body to retrieve the proposed measure from the Archives and include it in the Calendar for Ordinary Business. He emphasized that the Committee chaired by Senator Marcos rejected the proposal to cancel the ARMM elections.

#### **MANIFESTATION OF SENATOR DRILON**

Adverting to legislative history, Senator Drilon recalled that the first time an adverse report was retrieved from the Archives was in January 1965 when the Members were confronted by a similar situation and invoked Section 25, which is now Section 30 of the Rules of the Senate. He noted that the motion of the five senators was not subject to approval of the Body, and that the proposed measure should be placed automatically in the Calendar for Ordinary business

#### **REMARKS OF SENATOR ZUBIRI**

Senator Zubiri recalled that it was Senator Tolentino who made a similar motion in 1965, and that it was not to the plenary, but to the Committee where the bills involved were recommitted.

*Handwritten initials: "H" and "PB"*



However, the Chair pointed out that under the Rules, the measure would be brought back to plenary for appropriate action and discussion. Senator Zubiri argued that it should be placed in the Calendar for Ordinary Business first.

Senator Sotto stated that the motion to retrieve the measures from the Archives is not subject to debate and it is the Senate President who shall take the necessary action.

#### **MANIFESTATION OF SENATOR MARCOS**

Senator Marcos clarified that he was not contradicting the findings of the Committee when he made the motion to bring the measures back to plenary. He explained that he presented the motion even as he strongly believed in the findings of the Committee, because he recognized the importance of the issue that must be debated on the floor.

#### **RETRIEVAL OF HOUSE BILL NO 4146 AND SENATE BILL NO. 2756 FROM THE ARCHIVES**

With six senators concurring in the motion which was duly seconded, pursuant to Section 30 of the Rules of the Senate, the Chair directed the retrieval House Bill No. 4146 and Senate Bill No. 2756, from the Archives and that the same be included in the Calendar for Ordinary Business.

#### **MANIFESTATION OF SENATOR PANGILINAN**

At this juncture, Senator Pangilinan manifested that 10 senators are not members of the Committee of Local Government because it has only 13 members, of which nine are regular members and four are *ex officio* members.

#### **MOTION OF SENATOR SOTTO**

Senator Sotto moved for the transfer of House Bill No. 4146, taking into consideration Senate Bill No. 2756, from the Calendar for Ordinary Business to the Calendar for Special Orders.

#### **MANIFESTATION OF SENATOR ZUBIRI**

Senator Zubiri stated that it is a matter of parliamentary courtesy and practice to prepare an

agenda that lists the priority bills to be taken up on the floor on a given day. He requested that the consideration of the measure be deferred until the next day's session because many of the senators were not ready to interpellate thereon.

But Senator Sotto said that his motion was simply to place the measure in the Calendar for Special Orders.

Senator Zubiri clarified that he was not objecting to the motion but was merely making an appeal to defer its consideration until the next day.

#### **SPECIAL ORDER**

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of House Bill No. 4146, taking into consideration Senate Bill No. 2756, from the Calendar for Ordinary Business to the Calendar for Special Orders.

#### **CONSIDERATION OF HOUSE BILL NO. 4146**

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, 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."

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

*MS*

The Chair recognized Senator Drilon for the sponsorship.

## REMARKS OF SENATOR DRILON

Before formally sponsoring the measure, Senator Drilon said that he wanted to make it clear that he agreed with Senator Marcos and that his sole desire was to place the bill on the floor for debate. He stated that sponsoring the bill would not be a reflection on the diligence, competence and sincerity of the Chairman of the Committee on Local Government in recommending the disapproval of the House measure, taking into consideration Senate Bill No. 2756 which he filed.

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

## POINT OF ORDER OF SENATOR ARROYO

Senator Arroyo raised a point of order, saying that the senators should be furnished first with the copies of the bill so that they would understand the discussion.

Thereupon, the Chair directed the Secretariat to furnish the senators with copies of the bill.

## SUSPENSION OF SESSION

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

*It was 5:45 p.m.*

## RESUMPTION OF SESSION

At 5:47 p.m., the session was resumed.

The Chair recognized Senator Drilon to sponsor the measure.

## SPONSORSHIP SPEECH OF SENATOR DRILON

Thereupon, Senator Drilon presented to the Body for plenary deliberations House Bill No. 4146.

*Hereunder is the full text of his sponsorship speech:*

Let me begin by asserting that the holding of the August 8, 2011 ARMM elections is

unconstitutional in that the enabling law, Republic Act No. 9333, provides for a desynchronized election which is not consistent with the constitutional mandate to synchronize local and national elections. If anything, the proposal embodied in House Bill No. 4146, taking into account Senate Bill No. 2756, to defer the election in the ARMM for the purpose of synchronizing them with the national and local elections is actually in harmony with the intention of the Constitution to hold synchronized elections.

The ruling of the Supreme Court in the 1991 case of *Osmena, et al. vs. Commission on Elections* is instructive and controlling. In striking down as unconstitutional Republic Act No. 7056 which called for the holding of a national election on the second Monday of May 1992 and the local election on the second Monday of November 1992, the Supreme Court, citing proceedings in the Constitutional Commission, said: "It thus becomes very evident that the Constitution has mandated a synchronized national and local election. With the clear mandate of the 1987 Constitution to hold synchronized (simultaneous) national and local elections x x x the inevitable conclusion would be that Republic Act No. 7056 is clearly violative of the Constitution because it provides for the holding of a desynchronized election".

This ruling, we strongly submit, is squarely controlling on Republic Act No. 9333. We cannot hold the election on August 8, 2011, because it is, in effect, a desynchronized election. We cannot spend public funds for this purpose.

The election must be cancelled. It has to be cancelled because to hold it is unconstitutional.\*

As pointed out by the noted constitutionalist and scholar, and member of the 1986 Constitutional Commission, Father Joaquin Bernas: "[S]ynchronization also finds support in the desire of the transitory provisions of the 1987 Constitution that local elections be synchronized with the national elections. This desire is not explicitly stated but it can be deduced from Sections 2 and 5 of the transitory provisions. And since the ARMM elections are local elections, it stands to reason that they should be synchronized with the other local elections."

There is no reason, therefore, whether in logic or in law, to continue to insist that the ARMM elections should be conducted separately, in view of this constitutional imperative. The

\*As corrected by Senator Drilon on June 1, 2011

Constitution commands synchronization and the current proposal merely seeks to ensure compliance with that command.

Let me now address the supposed “unconstitutionality” of House Bill No. 4146 and Senate Bill No. 2756. Those who oppose the measure claim that a deferment of the elections is necessarily an “amendment” to the Organic Act, and thus, must be approved by two-thirds of all the members of the Senate and the House of Representatives, and approved in a plebiscite.

Allow me to put this “issue” to rest, once and for all. A deferment of the ARMM regional elections does not constitute an amendment of the Organic Act, Republic Act No. 9054. Nowhere in the Organic Act is a specific date for the holding of regular elections prescribed. In fact, the only provision in the Organic Act that mentions a date for elections is found in the transitory provisions, Article XVII, Section 7, which refers specifically and explicitly only to the *first regular elections* conducted after the adoption of the Organic Act. Thus, House Bill No. 4146 and Senate Bill No. 2756, which set the date of the next regular election to the second Monday of May 2013, and the subsequent elections on the same date every three years thereafter, in no way amends, modifies, repeals, revises or changes any provision of the Organic Act.

The current August 8, 2011 date for the ARMM elections is prescribed not under the Organic Act but under Republic Act No. 9333, which set the elections on the second Monday of August 2005 and on the same date every three years thereafter. Very clearly, therefore, House Bill No. 4146 and Senate Bill No. 2756 do not seek to amend a single letter in the text of the Organic Act but instead amends a different law, Republic Act No. 9333. This is not the first time that the ARMM elections have been deferred and rescheduled. Since the enactment of the original Organic Act, Republic Act No. 6734, and the passage of Republic Act No. 7647, the law that first set the date of the regular elections of the ARMM, seven laws – I repeat, seven laws, the last of which is Republic Act No. 9333 – have been enacted to change the date of the elections and never was the amendment subject to two-thirds vote of both Chambers or to any plebiscite.

Rescheduling the ARMM elections to 2013 and synchronizing them with the national and local elections, of course, raises the question as to how the vacancies in the regional government—that will necessarily arise when the terms of the elected officials expire this September—will be filled.

House Bill No. 4146 and Senate Bill No. 2756 empower the President to appoint officers-in-charge to perform the functions of the regional elective officials.

It bears emphasizing that the power of the President outlined in House Bill No. 4146 and Senate Bill No. 2756 finds support in the case of *Menzon v. Petilla* decided by the Supreme Court in 1991, and it is a rule that applies squarely to the situation that now confronts us. It cannot be denied that the Constitution, in Article X, Section 16, explicitly vests in the President the power of general supervision over the autonomous region, and it is in the exercise of such power, as explained by the Court in the *Menzon* case, that he may act to address the vacuum in local leadership. House Bill No. 4146 and Senate Bill No. 2756 merely state in express terms this settled judicial and constitutional doctrine. We reiterate our previous position.

Republic Act 9333 is unconstitutional as it calls for desynchronized elections. Being unconstitutional, by force of law, a temporary vacancy is therefore created because election cannot be held on August 8, 2011. Any public funds spent for that purpose is illegal because, I repeat, Republic Act No. 9333 calls for a desynchronized election which the Supreme Court has held in the case of *Osmeña vs. Comelec* as being unconstitutional. Therefore, the vacancy created is not because of the enactment into law of House Bill No. 4146, taking into consideration, Senate Bill No. 2756, but that the vacancy is created by force of law, by the unconstitutionality of Republic Act No. 9333.

But, apart from this legal and unconstitutional consistency and validity, the broader concern is the need to introduce urgent and crucial reforms into the electoral and political system currently prevailing in the ARMM, with the ultimate aim of putting in place a social, political and economic environment that will allow for the meaningful and genuine exercise of the democratic rights of its people.

We must recall that the ARMM was established with, among other expectations, the hope that it would address the staggering levels of poverty and underdevelopment in the region. Sadly, however, since the establishment of the ARMM, poverty incidence in the region has steadily increased, from 18.6% in 1991, to nearly double at 38.1% in 2009. Four of its five constituent provinces – Basilan, Sulu, Tawi-Tawi and Maguindanao – are among the poorest in the country.

Far from fulfilling the hopes of progress and development, the various regional governments that have come to power since the establishment of the ARMM have, if anything, only worsened the plight of the people they have pledged to serve. Persistent reports of large-scale corruption, election irregularities, and incidents of violence come from the region with an alarming regularity. There is, therefore, a clear, urgent and undeniable need to clean house within ARMM, to address the multitude of problems and concerns currently plaguing the ARMM.

The DILG, along with a substantial number of citizens' groups and people's organizations, has taken the position that these crucial initiatives must be implemented before another election is conducted. Otherwise, the outcome of such an election cannot be guaranteed to be clean, honest and truly reflective of the will of the people of the ARMM.

Five key reform proposals have been identified, all of which are intended to be implemented within the next 20 months before the 2013 elections. These initiatives are all aimed at addressing the most urgent concerns in the region and ensuring that the people of ARMM are fully empowered to freely and genuinely express their sentiments in the next regular election.

The first concern is the institution of electoral reforms. Comelec needs to cleanse the voters' list, conduct re-registration of voters, and modernize the election process. The Comelec has taken the position that if we are to proceed with the August 8, 2011 elections, the elections will be manual because of lack of time. It is precisely when we have manual elections, as we have seen in the past, when the opportunity to cheat and defeat the people's will becomes very apparent.

The second key reform proposal is the implementation of peace and order initiatives. To address the alarming and increasing incidence of criminality, insurgency, lawlessness and terrorism activities in the region, as well as create an environment conducive to free, open and honest election, a satellite PNP regional command office in Sulu has to be established and maintained. Similarly, continuing efforts must be made to neutralize and disband 41 private armed groups in the region.

Third, the recommendation of the Commission on Audit (COA) Special Audit on the ARMM must be acted upon. The special audit of the ARMM utilization funds conducted by

the COA last year concluded that the regional government showed total disregard of budgeting, accounting and auditing rules and regulations, prompting COA to require the refund of over P1 billion in public funds in unauthorized payments in the office of the regional government.

Fourth, an additional and detailed Fund Utilization Audit in the ARMM provinces and municipalities must be conducted.

Finally, there must be an effort to accelerate service delivery and implementation of development projects. Of the regional government's P11.179 billion budget for 2011 under the General Appropriations Act, some P8.28 billion has been earmarked for the implementation of programs and projects. I repeat: the budget of the ARMM for 2011 is P11.179 billion. Over the past years, this has been increasing in terms of amount but no visible improvement in the lives of our Muslim brothers and sisters can be seen notwithstanding the tremendous sums of money poured into ARMM. The smooth implementation of these programs and projects by honest, credible and competent regional officials shall ensure the steady and sustained growth and development in the region that, in turn, will redound to the better delivery of economic and social services to our people in the ARMM. All these initiatives would be more easily and effectively implemented if elections are deferred until 2013.

Perhaps, more significantly, the implementation of these initiatives will help revive the hope that autonomy for the Autonomous Region of Muslim Mindanao can mean something far more than just being granted the formal trappings of democracy, but that rather, autonomy can lead to the capability and opportunity for the people of the Autonomous Region of Muslim Mindanao to fully and freely participate in the process of attaining peace, prosperity and development for themselves, their communities, and for our country.

## MANIFESTATION OF SENATOR ZUBIRI

Senator Zubiri reiterated his earlier request that the Members be given time to study the Committee Report so that they could prepare for the interpellations. Also, he asked to be given the chance to interpellate, right after Senator Marcos, Chair of the Committee on Local Government.

## SUSPENSION OF CONSIDERATION OF HOUSE BILL NO. 4146

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

ASG Y6

**POINT OF ORDER  
OF SENATOR CAYETANO (P)**

At this juncture, Senator Cayetano (P) raised a point of order as she disclosed that she was in receipt of a notice from the Committee on Rules about a joint hearing on June 7, 2011, with the Committee on Health and Demography on the Citizens' Petition requesting a Senate inquiry on family planning methods, the use of contraceptives and their serious side effects, which matters, she said, are under the jurisdiction of the Committee on Health and Demography. She stated that based on her understanding of the Rules of the Senate, the jurisdiction of the Committee on Rules is limited to administrative matters.

In reply, Senator Sotto stated that the referral of the Citizens' Petition to the Committee on Rules was not meant to undermine the jurisdiction of the Committee on Health and Demography. However, he stated that since this is the first time the Senate received such a petition, it was referred to the Rules Committee which, he said, would be willing to yield to the Committee on Health and Demography, if its chair so desires to take over the hearing. He explained that the Rules Committee was more concerned about the Citizens' Petition *per se* rather than its content.

On the matter of determining which committee ought to hear the petition, Senator Cayetano (P) believed that on the face of the petition and the summary provided by the Rules Committee, it is clearly a health matter and should be referred to the Committee on Health and Demography which could then schedule when and where to conduct the hearing.

Proceeding to another matter, Senator Cayetano (P) noted that the Order of Business included a communication from the Commission on Population of the Department of Health, dated May 12, 2011, furnishing the Senate with copies of signatures declaring support for the immediate passage of the bill on Responsible Parenthood, Reproductive Health and Population Development, that was referred to the Committee on Rules and the Committee on Health and Demography.

Asked why the Rules Committee was going to conduct a hearing on a matter that pertains to health, Senator Sotto clarified that the Office of the Senate President made the decision based on Section 6 of the Rules of Procedure Governing Inquiries in Aid of Legislation, to wit:

SEC. 6. Petition by Non-Members. - A petition filed or information given by any person not a Member of the Senate shall be under oath, stating the facts upon which it is based, and shall be accompanied by supporting affidavits.

If the President finds the petition or information to be in accordance with the requirements of this Section, he shall refer the same to the appropriate Committee.

Senator Sotto said that in the case of the communication adverted to, the Senate leadership felt that the appropriate committee was the Rules Committee. If Senator Cayetano (P) wanted to question this particular referral, he said, she could take it up with the Senate President or even with the rest of the Members.

Senator Cayetano (P) stated that according to the memorandum of the Legislative Parliamentary Counseling dated May 11, 2011, under the second paragraph of Section 6 of the Rules of Procedure Governing Inquiries in Aid of Legislation, it is the Senate President who is conferred with the power to determine whether or not the petition filed by a non-member duly complies with the requirements imposed by the first paragraph of the same section such as verification, statement of facts and supporting affidavits and if so warranted, the Senate President has sole authority to refer by himself or through the Senate Secretary the same petition to the Committee/s having jurisdiction on the subject matter for proper disposition. Following this recommendation, she said that the Committee on Rules should have recommended that the petition be referred to the committee that has jurisdiction over its subject matter.

**REMARKS OF SENATOR PANGILINAN**

As to the question of whether or not the referral was proper, Senator Pangilinan suggested that the discussion be referred to the Committee on Rules which should convene to discuss whether or not the petition falls under the jurisdiction of the Committee on Rules.

**REMARKS OF SENATOR GUINGONA**

In the interest of harmony and expediency, Senator Guingona requested Senator Sotto to yield to the Committee on Health and Demography since the subject matter pertains to health.

*AS* *PO*

Senator Sotto stated that he has to consult with Senate President Enrile first.


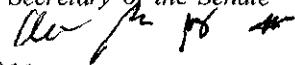
For her part, Senator Cayetano (P) stated that she understood that the Rules Committee has administrative jurisdiction over the Senate proceedings, including the determination as to which committee a particular petition will be referred. She said that she also understood the need for the Majority Leader to consult with Senate President Enrile on the matter. However, she opined that the petition on its face clearly involves a matter which falls under the jurisdiction of the Committee on Health and Demography. If such would be the finding of the Rules Committee, she requested that a proper referral be made.

## ADJOURNMENT OF SESSION

Upon motion of Senator Sotto, there being no objection, the Senate President Pro Tempore declared the session adjourned until three o'clock in the afternoon of Wednesday, June 1, 2011.

*It was 6:19 p.m.*

I hereby certify to the correctness of the foregoing.

  
EMMA LIRIO REYES  
Secretary of the Senate  


Approved on June 1, 2011