

RECORD OF THE SENATE

MONDAY, OCTOBER 16, 2000

OPENING OF THE SESSION

At 3:17 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

The President. The 27th session of the Third Regular Session of the Eleventh Congress is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Renato L. *Compañero* Cayetano of Lakas II.

After the prayer, the *Kawan Ng Diyos* Choir will lead us in the singing of the national anthem. The choir will also render another song, entitled *Sa Iyo Lamang*.

Everybody rose for the prayer.

PRAYER

Senator Cayetano. This prayer is a rephrase of a part of Germaine Coopland's "Prayer That Avail Much."

Father, in Jesus' name, we give thanks for our beloved Philippines. We hold up in prayer before You, the men and women who are in positions of authority.

Father, we ask that You cause the men and women in our government to make their hearts and ears attentive to godly counsel and to what is right in Your sight.

We pray that the upright shall dwell in our government; that men and women blameless and complete in Your sight, Father, shall remain in these positions of authority; that the wicked and corrupt shall be cut off from our government, and that those who betray the public trust shall be rooted out from it.

Father, You are our refuge, our stronghold in these times of trouble, uncertainty and desperation.

These we ask through Your Son, Jesus Christ.

Amen.

NATIONAL ANTHEM

Everybody remained standing for the singing of the national anthem.

The President. The Chair wishes to thank the *Kawan ng Diyos* Choir for that beautiful rendition of our national anthem and the song entitled *Sa Iyo Lamang*.

The Secretary will please call the roll.

ROLL CALL

The Secretary, reading:

Senator Teresa Aquino-Oreta	Present
Senator Robert Z. Barbers	Present
Senator Rodolfo G. Biazon	**
Senator Renato L. <i>Compañero</i> Cayetano ...	Present
Senator Anna Dominique M. L. Coseteng ..	Present
Senator Miriam Defensor Santiago	**
Senator Juan Ponce Enrile	Present
Senator Juan M. Flavio	Present
Senator Teofisto T. Guingona Jr.	Present
Senator Gregorio B. Honasan	Present
Senator Robert S. Jaworski	Present
Senator Loren B. Legarda-Leviste	Present
Senator Ramon B. Magsaysay Jr.	Present
Senator Blas F. Ople	**
Senator John Henry R. Osmeña	Present
Senator Sergio R. Osmeña III	*
Senator Aquilino Q. Pimentel Jr.	Present
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Vicente C. Sotto III	Present
Senator Francisco S. Tatad	Present
The President	Present

The President. With 18 senators present, the Chair declares the presence of a quorum.

THE JOURNAL

Senator Tatad. Mr. President, I move that we dispense with the reading of the *Journal* of Session No. 26 of October 10-12, 2000 and consider it approved.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

MOTION OF SENATOR TATAD (To Defer the Reading of the Reference of Business)

Senator Tatad. Mr. President, I move that we defer the

* Arrived after the roll call

** On official mission

SUSPENSION OF SESSION

Senator Tatad. Mr. President, I move that we suspend the session for one minute.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 3:52 p.m.

RESUMPTION OF SESSION

At 3:56 p.m., the session was resumed.

The President. The session is resumed. The Majority Leader is recognized.

BILL ON SECOND READING

S. No. 2129—Strengthening the ARMM Organic Act
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2129 as reported out under Committee Report No. 393.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 2129 is now in order.

Senator Tatad. Mr. President, we are still in the period of interpellations. I ask that the distinguished sponsor of the measure, Sen. Aquilino Q. Pimentel be recognized; and to interpellate, I ask that Sen. Robert Z. Barbers be likewise recognized.

The President. Sen. Aquilino Q. Pimentel Jr., the principal sponsor of the measure, is recognized; and to interpellate, Sen. Robert Z. Barbers is likewise recognized.

Senator Pimentel. Thank you very much, Mr. President.

I would like to place on record my personal appreciation that this issue, which is very crucial also for the sake of our country in terms of peace and development of Mindanao, is being taken up. Again, if I am not mistaken, I think this is the third time already that it has been up for discussion on the Floor of the Senate, a recognition that the Senate is determined to finish this discussion as soon as possible so that we can address the basic issues of the so-called problems in Central and Southern Mindanao.

The President. Sen. Robert Z. Barbers may proceed now with his interpellation.

Senator Barbers. Thank you very much, Mr. President.

Will the distinguished sponsor yield for a few clarificatory questions?

Senator Pimentel. With pleasure, Mr. President.

Senator Barbers. My first question, Mr. President, focuses on the suspension and removal of the regional governor as provided for under the proposed measure.

Senator Pimentel. Yes, Mr. President.

Senator Barbers. Article VI, Section 1, particularly the last paragraph, provides:

The President may suspend the regional governor for a period not exceeding six (6) months for willful violation of the Constitution, this Act and any existing law that applies to the autonomous region.

On the other hand, Article VIII, Section 13 provides that the regional governor may be removed from office for culpable violation of the Constitution, this Act, treason, bribery, graft and corruption, or betrayal of public trust by a three-fourths (3/4) vote of all the members of the regional assembly.

May I be enlightened on the phrase "any existing law that applies to the autonomous region." To my understanding, there are two sets of laws—one, that applies to the region and the other which is national in scope. So may I be enlightened on this particular phrase?

Senator Pimentel. Mr. President, the gentleman is right in his apprehension that there may be some ambiguity in the proposal. Probably, we just have to clarify and refine the concepts here so that that President, whoever he might be at any given time, may not be tempted to abuse that power of suspension of the regional governor on the slightest of pretext. However, the wording of the first set of options left to the President, which is to suspend the regional governor for any violation of the Organic Act and any law applicable to the autonomous region, would have to do, if we want to narrow down its scope, for example, with releases of funds to the autonomous region that are not duly accounted for.

Now, the releases of funds to the autonomous region is sanctioned by national law, for example, the budgetary laws. That will be an example of a law that is national in scope, but some pertinent portions of that law will be applicable to the autonomous region itself. So that, if, for example, the regional governor is unable or refuses to account for the amounts

released to the autonomous region, particularly those which are coursed through his office as regional governor, then the President would have ample basis to discipline him on that score.

Senator Barbers. Considering, Mr. President, that there is a little ambiguity in the interpretation of this provision, would the distinguished sponsor be amenable to some amendments later?

Senator Pimentel. At the proper time, certainly, Mr. President.

Senator Barbers. Thank you very much, Mr. President.

Now, the second issue that I would like to be enlightened on is the difference between the word "culpable" and the word "willful." It says that the ground for suspension calls for willful violation while the grounds for removal calls for a culpable violation.

I am raising this issue because I would like to know the probable scenario when the President suspends the regional governor—as to whether the same may *ipso facto* be considered a ground also for removal and vice versa.

Senator Pimentel. Mr. President, if the willful violation of these provisions is done by the regional governor and is a cause for the suspension,—incidentally, we are talking here principally of preventive suspension by the Office of the President—that could ripen into a culpable violation of the Constitution as far as the regional legislative assembly is concerned which has the power to remove the regional governor, from my understanding of the reading of the two provisions which the gentleman has just done a few minutes ago.

Mr. President, again, probably we should use the same terminology so that we can avoid confusion in this regard.

Senator Barbers. That is the reason I raised this issue, Mr. President. And I suppose also that the distinguished sponsor would be amenable to some amendments in the future.

Senator Pimentel. Certainly, Mr. President.

Senator Barbers. The next item, Mr. President, is about the provision on a team system of election for the regional governor and vice governor, which means that a vote for a regional governor is also considered a vote for the vice governor.

Mr. President, does the gentleman not think that this is an encroachment on the right of suffrage of every Filipino in the autonomous region, considering that there are some voters in that region who opt only to vote for the governor but who do not like the running mate of the governor?

Senator Pimentel. Yes, that is true.

Senator Barbers. What would be the scenario here, Mr. President? Shall we maintain this particular provision even if it would be objectionable, even if the voters would raise this objection later, that the vote for the governor should not be counted as a vote for the vice governor?

Senator Pimentel. Mr. President, as the senator correctly pointed out, this is an innovation in the way our people will be voting for certain officials in the autonomous region. And this is the first time it is being introduced in this country for that matter, as far as I recall. And we are trying to say, "All right, the governor and the vice governor must belong to one party or one coalition for that matter, if they are going to be elected by the people." So that the formula is: A vote for the governor is a vote for the vice governor and vice versa. The idea is to ensure that when the team is elected—the governor and vice governor—there will be continuity of the programs or the platforms enunciated by the team when they campaign. And so, we obviate the possibility of the vice governor fighting the governor when they are both in office already preparing to topple the governor or the governor wanting to get rid of his vice governor. That will no longer be allowed under this setup.

So that the evil of preventing people from having a choice in this regard, is probably offset by the good that can be derived from having a team elected as regional governor and regional vice governor.

Senator Barbers. I raise this issue, Mr. President, because I believe this is depriving a voter of his right to suffrage, which is a personal right, and he will be deprived also of his personal choice. This is similar to the block-voting system many, many years ago, I would suppose, Mr. President.

If for example, during the election period or during the election day, the voter will only vote for the vice governor, he will not vote for the governor, what happens now to the "team system" of voting, Mr. President?

Senator Pimentel. The formula is worded: "A vote for the vice governor is a vote for his governor," I mean, his teammate as governor.

Incidentally, Mr. President, we are not modeling this formula on what happened in our country at the time when this matter was called "block voting." On the contrary, we are having the United States' presidential and vice presidential elections as the pattern or the model for this innovative suggestion as far as regional governor and vice governor would be concerned in the regional elections.

Senator Barbers. Because as it is today, Mr. President, especially the Muslim areas, there are lots of Muslim voters who are independent-minded, who select their own candidates who do not necessarily belong to one party. I have my doubts on this particular provision, but however, I will confront the distinguished sponsor for an amendment in the proper time.

Senator Pimentel. Yes, Mr. President. But I would like to point out that this system has been the system followed in the United States of America which is supposed to be the epitome of political democracy, if ever there is one that has survived challenges over 200 years of its constitutional existence. So I would like to suggest that, yes, we are open to suggestions and we will entertain motions to amend at the proper time, although I would like to advance the opinion that this method has successfully withstood challenges of constitutionality even in the United States of America.

Senator Barbers. Mr. President, I presume that a public hearing was conducted on this issue. May I just know the sentiments of the Muslims in the Autonomous Region in Muslim Mindanao on this particular proposal?

Senator Pimentel. Mr. President, the good senator knows that we have conducted many consultations in the four original provinces belonging to the Autonomous Region and in the 10 additional provinces that are supposed to be included in the expanded area of the autonomy. This issue was not taken up in all the areas we visited. It was suggested, in fact, by some Muslim scholars whom we consulted in those places where we conducted the consultations. Therefore, Mr. President, there is no widespread demand that this be followed. That the Chairman will have to admit.

Senator Barbers. Anyway, Mr. President, as I said, I might confront the distinguished sponsor on some amendments at the proper time.

Senator Pimentel. Yes, Mr. President.

Senator Barbers. One last item, Mr. President, which I consider very important is the provision in Article XIV, Section 7, paragraph (b) which provides that the regional police which is to be created under Section 2 of the same

article, shall be regional in operation. And that whenever there is a deployment beyond the territories of the region or elsewhere in the republic as directed by the National Police Commission, especially when it is needed to suppress lawless violence, to arrest criminal offenders or maintain law and order, there is a need for an order of deployment signed by the chairman of the National Police Commission and approved by the President of the Philippines. So may I know the rationale behind this proposal, because if we talk of efficient and effective law enforcement, this might hinder or this might prevent the police elements to conduct operations beyond the boundaries of the region for fear that they might be committing an offense or they might be charged in court later.

So may I be enlightened on this, Mr. President.

Senator Pimentel. Thank you, Mr. President, for that question. And first, let me immediately add that the doctrine of hot pursuit of criminals is not at all prevented from being observed by this provision. In other words, when there are criminals operating within the region and they go out of the region and the police is actually running after them, there is no need to wait for an order from the Napolcom chairman in order to validate the hot pursuit that the regional police will be doing. That is not covered by the provision cited by the gentleman.

Then second, I would like to state that, if I remember correctly, the requirement of the police being confined within the autonomous region is found or sanctioned by the Jakarta Agreement, Mr. President. As a matter of fact, even in the old Organic Act, there was a provision to that effect—that the regional police be used and be deployed only within the autonomous region—and we find that very constrictive in character.

And if the gentleman will also read further down the line, he will notice that the President is given the authority to order the deployment of the regional police anywhere in the Philippines when the need arises.

Senator Barbers. Yes, Mr. President, but as I reviewed the provision, it goes to the chairman of the National Police Commission, then goes to the President for approval. Does the gentleman not think that it is a waste of time since the Napolcom can decide in behalf of the President? Or they can even go directly to the President?

Senator Pimentel. Yes, probably, we can refine that concept. But I only mentioned that the President can act even if the Napolcom does not make any recommendation, if it feels

that there is a need for deployment of the autonomous regional forces elsewhere in the country.

Senator Barbers. That is correct, Mr. President, if we talk of hot pursuit operations. But what if there is no hot pursuit operation and that there is a request from a neighboring province for an augmentation group from some elements of the Autonomous Region in Muslim Mindanao in order to quell some violence in the neighboring province? What would be the scenario now?

Senator Pimentel. Under that proposal, there seems to be a need to follow the step-by-step requirement. But we can refine that concept again, Mr. President. And perhaps, having been experienced in such matters, we can guide the committee as to how we can facilitate the deployment of forces to augment, as the gentleman said, the forces of other police units outside of the autonomous region in times of need.

Senator Barbers. Thank you very much, Mr. President. I would like to thank the distinguished sponsor. I am happy and contented with the answers of the distinguished sponsor.

Senator Tatad. Mr. President, the next in our list of interpellators is Sen. Juan Ponce Enrile. He is not in the Hall right now.

SUSPENSION OF SESSION

So I move that we suspend the session for a few minutes.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for a few minutes.

It was 4:15 p.m.

RESUMPTION OF SESSION

At 4:27 p.m., the session was resumed.

The President. The session is resumed. The Majority Leader is recognized.

Senator Tatad. Mr. President, I ask that the other Minority Leader be recognized, Sen. Renato L. *Compañero* Cayetano.

The President. Let the record reflect that he is the Assistant Minority Leader representing Lakas II.

Senator Cayetano. Thank you, Mr. President.

Senator Roco. Inquiry, Mr. President.

The President. Senator Roco is recognized on a point of inquiry.

Senator Roco. This identification, Mr. President, is being received by me with apprehension. Does it mean that from now on we shall address the Minority Leaders in this fashion—the assistant or the senior assistant? Is this the rule that is being asked of the Body, Mr. President?

The President. We will rely on the representation of the Minority Leader and the Assistant Minority Leader.

Senator Roco. Does it mean, Mr. President, that in the absence of the Minority Leader, the Assistant Minority Leader is the one who will act?

The President. And can be nominated.

Senator Roco. And can also be nominated to replace the Minority Leader.

The President. Yes.

Senator Roco. But it does not preclude us, Mr. President, from nominating Senator Barbers or somebody else.

The President. Certainly not. It does not preclude him from nominating Senator Barbers.

Senator Roco. No. I am just concerned, Mr. President.

The President. Thank you for the concern.

Senator Roco. Because of the seriousness of the discussion, what this means...

The President. Yes.

Senator Roco. Thank you.

Senator Pimentel. But one thing is certain, Mr. President, we are not talking here of resignations.

Senator Cayetano. Mr. President, I am also listening. *[Laughter]* Thank you, Mr. President. I speak with the permission of the Minority Leader.

The President. And also of the Chair, I assume.

Senator Cayetano. And of the Chair. It goes without saying, Mr. President, because I did address the Chair first. But levity aside, will my esteemed colleague answer some questions on this *magnum opus*?

Senator Pimentel. With pleasure, Mr. President.

Senator Cayetano. First of all, let me congratulate my esteemed colleague from Cagayan de Oro, Mr. President. I wish he had a hand in the writing of the 1987 Constitution, because the way I read this, this is in fact a Constitution of the expanded Autonomous Region in Muslim Mindanao.

Senator Pimentel. That is what it is meant to be, Mr. President.

Senator Cayetano. And once again, let me congratulate him.

Senator Pimentel. Thank you, Mr. President.

Senator Cayetano. I know that he labored hard-and-long hours for producing a 72-page bill that I consider worthy of being entombed in the new Senate museum.

Senator Pimentel. Once it is approved, Mr. President.

Senator Cayetano. Mr. President, may I refer the gentleman to Section 12, *Plebiscite and Effectivity of this Act*, found on page 71.

Senator Pimentel. Yes, Mr. President.

Senator Cayetano. May I read paragraph (a), line 16, which speaks of separate plebiscites:

Municipalities that vote for their inclusion in the autonomous region shall likewise become members of the autonomous region provided they qualify for conversion as a separate province or provinces pursuant to the provisions of Republic Act No. 7160, the Local Government Code of 1991, or are merged with the province or provinces nearest to them that are already members of the autonomous region as provided in this act.

If a municipality that is found in, let us say, Zamboanga del Sur, decides to vote for inclusion in the autonomous region, how would this municipality, for instance, become a member of the autonomous region?

Senator Pimentel. Is that the question, Mr. President?

Senator Cayetano. I am trying to get a hand on this provision which I read, Mr. President.

Senator Pimentel. Yes, Mr. President.

Senator Cayetano. Suppose a municipality in Zamboanga del Sur opts to be included in the autonomous region.

Senator Pimentel. Yes, Mr. President.

Senator Cayetano. It says here "provided they qualify for conversion." When we say "if they qualify," it does not mean that they are already converted into a province. Is it not, Mr. President?

Senator Pimentel. Certainly not, Mr. President. First of all, the idea is, if there are municipalities that are contiguous one to the other and they opt to become members of the expanded area of the autonomy even if the provinces to which they belong vote otherwise, under the terms of the Jakarta Agreement, they would qualify to be members of the autonomous region. They will, however, have to qualify. If they want to be organized as a separate province, they must comply with the requirements of the Local Government Code as far as population, area and income are concerned.

The example of the gentleman, however, speaks of a single municipality opting to become a member of the autonomous region. It would look like that even if there seems to be an insinuation in the way the amendments of the Organic Act actually are worded. The thing is, according to Secretary Aguirre—and I would like to read his communication to the Chair dated October 9, 2000, he says, and which I quote:

The implementing structure and mechanism of the peace agreement states that the new area of the autonomy shall be determined by provinces and cities that will vote/choose to join said autonomy. It may be provided by Congress in a law that clusters—

This is plural.

—of contiguous Muslim-dominated municipalities voting in favor of the autonomy be merged and constituted into a new province which shall then become a part of the new autonomous region.

It looks like under this interpretation or quotation of Secretary Aguirre, who is the national security adviser and director general of the National Security Council, that one municipality opting to become a member of the autonomous region may not qualify as such to become a new member of the expanded autonomy.

Senator Cayetano. I would like to thank the distinguished gentleman for that answer. That is what I also thought that not a single municipality is being spoken of here. It should

be, as the gentleman said, Mr. President, a cluster or a contiguous set of municipalities.

Senator Pimentel. Yes, Muslim-dominated *pa*. There is an additional qualification.

Senator Cayetano. That is right. I am happy to note that, Mr. President, because it is not quite clear here on line 16. Maybe during the period of amendments, I will offer an amendment to clarify this particular section.

Senator Pimentel. Yes, please. We would like to expect that amendment, Mr. President, from the distinguished gentleman.

Senator Cayetano. Thank you, Mr. President. Now, on the same page 71, lines 1 to 7, it speaks here of plebiscite of voters who are now residing in the four provinces constituting the present autonomous region pursuant to Republic Act No. 6734.

Does the distinguished gentleman foresee, Mr. President, two kinds of balloting here or just one balloting, because right now, we know that we have the so-called "ARMM?"

Now, will the question be posed to them in a plebiscite which states: "Do you want to remain or do you want to expand the membership of the autonomous region?" Because I can see that the new cities and municipalities that are not members will probably be asked a different question.

So I just want to find out, Mr. President, what kind of questions will be asked if there is a plebiscite. Will they be the same or different, first, for the first four provinces that constitute the ARMM; and second, the provinces that are not members of the present ARMM as far as seeking their votes on this particular law is concerned?

Senator Pimentel. Mr. President, there will be two sets of questions differently worded. The first question is to be addressed to the voters of the present members of the autonomous region. Essentially, they will only be asked: "Do you approve of the amendments to the Organic Act which created you?"

In effect, that would be the tenor of the amendment of the plebiscite question. They will not be asked anymore this question: "Do you wish to remain or do you wish to get out of the autonomous region?" The reason is, there is a feeling that the political leaderships of the original four member-provinces of the autonomous region are very resentful of the leadership of the autonomous region so much so that their

antagonism against the regional leadership might be reflected in their campaign and in the answers that they will give to a plebiscite question of whether or not they want to remain or get out of the autonomous region, thereby, risking the possibility of the collapse of the autonomous region which will again place upon us a new burden of resurrecting the autonomous region, because the creation of the autonomous region is mandated by the Constitution. I think the wiser judgment call is to prevent that eventuality, the possibility from happening, and just restrict them to whether or not they want to adopt the amendments of the Organic Act as they are being proposed in this bill.

Senator Cayetano. Thank you, Mr. President.

In that case, Mr. President, going further down on the same page, Section 13, *Plebiscite Information Campaign*, perhaps, we can insert there that the Commission on Elections is mandated to precisely ask two separate questions to ensure that the mandate of Congress with respect to these two sets of circumstances be reflected in the questions.

Senator Pimentel. Yes, Mr. President. I think that is a very good suggestion, although in the bill itself there are indeed two sets of questions already.

Senator Cayetano. Thank you, Mr. President.

May we go now to page 68—the creation of the oversight committee?

My question here is quite simple, Mr. President. I do realize the need for an oversight committee from the time that this bill becomes a law because there will be a lot of changes, a lot of movements of properties, and a lot of housekeeping, so to speak.

Senator Pimentel. That is correct, Mr. President.

Senator Cayetano. But is this oversight committee a self-destruct committee, because I do not see that this is a self-destruct committee? It may look like one, and this might be creating another bureaucracy below the President, because the regional government is only responsible to the President of the Republic. But here, we have an oversight committee. And as I read the functions, I thought, Mr. President—and my esteemed colleague could correct me here—that this is really intended for an ad hoc or temporary measure.

Senator Pimentel. Mr. President, the oversight committee is actually an administrative mechanism to enable the officials of the ARMM and the representatives of Congress—both the

Senate and the House—to interact on issues that affect the ARMM or the autonomous region as expanded, as proposed in this bill, so that things that can be arranged and corrected administratively need not go to the courts or even all the way up to the President. Because even as the oversight committee is being created, it does not mean that the functions of the regional governor, the functions of the Regional Legislative Assembly, for that matter, or the functions of the Shari'ah courts can be the subject of any supervision by the oversight committee.

In other words, the oversight committee will only deal with very limited functions that might be of administrative nature that can be settled at that level, Mr. President.

Senator Cayetano. I thank the gentleman for that, Mr. President.

But as I said, reading that from lines 3 to 17, I understand that this is purely an ad hoc committee. It covers only matters—upon the effectivity of this bill becoming a law and setting the tone and the manner by which turnover of properties, et cetera, but now the esteemed principal author mentioned that this is not an ad hoc and self-destruct oversight committee, Mr. President.

With due respect, of course, to my colleague who, as I said, has written this *magnum opus*, I really have some kind of doubts here whether we could really justify this oversight committee, because it may create not only another bureaucracy but may exercise functions not otherwise contemplated by our esteemed principal author. There is also no enumeration of the functions of this oversight committee.

Senator Pimentel. Yes, Mr. President, that is correct.

In any event, I would like to point out that there is an oversight committee that was created in connection with the Local Government Code, although, in theory, I suppose, that was expected to be an ad hoc committee. Up to now, Mr. President, nine years after the passage of the Act, it is still there, functioning.

So, yes, with some modifications, maybe we can clarify just exactly what kind of functions this oversight committee is supposed to discharge.

We will welcome that, Mr. President.

Senator Cayetano. Thank you, Mr. President.

May we go to page 67, Mr. President? This covers line

5 until line 28 with respect to disposition of certain real properties of the autonomous region.

Mr. President, certain local government units, primarily the city of Zamboanga, have approached this representation for the principal author to reconsider the provision that in case Zamboanga City, for instance, does not vote for inclusion into this new Autonomous Region in Muslim Mindanao, the present property there owned by ARMM should not be sold to the central government, because it is contemplated that after having sold the same to the central government, it would go to the regional government. What the local officials are worried about is, keeping those regional offices, say, in Zamboanga City, where the residents and voters have rejected inclusion might create a peace-and-order problem, among others. Would the sponsor consider favorably the sentiments of the local officials in Zamboanga City and other similarly situated local government officials in other cities and municipalities who may have the same problem?

Senator Pimentel. Mr. President, the concerns of the city of Zamboanga—and, as a matter of fact, these concerns were articulated by Cong. Celso Lobregat when this issue was discussed in the House—were to the effect that—and it looks fairly certain that Zamboanga City will really not vote for inclusion in the expanded area of the autonomy—if the city of Zamboanga will not opt to be included in the expanded area of the autonomy, Congressman Lobregat had wanted—and this was, in fact, adopted in the House—that the properties of the autonomous region located in Cabatangan in Zamboanga City if I am not mistaken, should be sold to the city of Zamboanga. That is what the local officials wanted to do.

Senator Cayetano. That is right, Mr. President. I stand corrected.

Senator Pimentel. Yes, and then this position, however, Mr. President, has been strongly, and continues to be strongly resisted by the autonomous region. It also wanted to make sure that the Cabatangan properties are not sold to Zamboanga City but that it should retain these properties.

And so, the committee suggests a formula that will neither completely uphold the position of the city of Zamboanga or the position of the autonomous region. And the formula that the committee is suggesting is for these properties to be bought by the central government, and then the proceeds will be given to the autonomous region so that it can use this money to construct its new site for the capital of the autonomous region. In that way, the central government therefore will be free to

allow the city of Zamboanga maybe to buy the properties, if the local officials want to, at a later date subject to the action precisely of the oversight committee that we have discussed earlier.

Senator Cayetano. We know that, Mr. President, and such Solomonic way of resolving these two antagonistic sides may well bring about a compromise. Indeed, if we can carry this into a law, I think the apprehension of the city government of Zamboanga City, as well as the opposition of the regional government of ARMM, may just be resolved.

Senator Pimentel. That was our intention.

Senator Cayetano. That is why, Mr. President, as I said, this is a *magnum opus*.

Senator Pimentel. That was the intention of the committee, Mr. President.

Senator Cayetano. I thank the gentleman for that.

May we go to page 45, Mr. President?

Senator Pimentel. Yes, please.

Senator Cayetano. Line 4 up to line 12, *Proclamation of State of Emergency*. I would like to call the attention of the Minority Leader—"proclamation of emergency."

Mr. President, I do agree with this except that, if I am not mistaken, this speaks of natural causes that have wreaked havoc to the people, vis-a-vis their lives and properties with respect to those living in the autonomous region. Maybe, we can change it. Instead of "state of emergency", because the phrase "state of emergency" is scaring our people...

Senator Pimentel. That is right, Mr. President.

Senator Cayetano. In fact, last Friday, when I was in Cebu City, everybody there was talking about a state of national emergency to be proclaimed by the President. *[Laughter]*

Senator Pimentel. The emergency in Cebu is only occasioned by Sen. John H. Osmeña. There is no other emergency in that particular area. *[Laughter]*

Senator Cayetano. So my proposal, Mr. President, is, at the proper time, knowing the intent and purpose of this particular provision, we change the phrase to "state of CALAMITY".

Senator Pimentel. Yes. I think that will reflect more

faithfully the events what we are trying to anticipate, Mr. President.

Senator Cayetano. That is all, Mr. President.

Again, I would like to congratulate the principal author of this measure for having written this Constitution for the new ARMM. Certainly, subject to amendments at a later period, we would like to place our own support.

If the gentleman would agree, I would like also to be a coauthor of this measure.

MANIFESTATION OF SENATOR PIMENTEL (Senator Cayetano as Coauthor of S. No. 2129)

Senator Pimentel. Yes, we will manifest, with the permission of the Majority Leader, that Senator Cayetano be made a coauthor of this measure.

Senator Cayetano. I thank the gentleman for that, Mr. President.

The President. Let it be noted in the *Record*.

Senator Tatad. Mr. President, I ask that Sen. Juan Ponce Enrile be recognized for the next interpellation.

The President. Sen. Juan Ponce Enrile is recognized.

Senator Enrile. Thank you, Mr. President.

Will the distinguished author of this *magnum opus* favor me with some answers to some questions, Mr. President?

Senator Pimentel. From one *makulit* senator to another, certainly, Mr. President.

Senator Enrile. Especially when the gentleman gives me a long time to ask questions. *[Laughter]*

Thank you very much, Mr. President.

Mr. President, I would like to know the extent of the powers of this local autonomous government as defined in Section 8 over natural resources.

The provision states:

Subject to the provisions of the Constitution and this organic act... the regional government shall have the authority, power, and right to explore,

develop and utilize the natural resources, including surface and sub-surface rights, in-land and coastal waters, and renewable and non-renewable resources in the autonomous region. Muslims and the other indigenous cultural communities shall, however, have priority rights to explore, develop and utilize the said resources in the areas designated as parts of their respective ancestral domains.

Mr. President, suppose someone would like to explore for petroleum or oil in the area of the autonomous region, and he discovers, first, the question of exploration. Would the permit be granted by the autonomous region, or would that be a function of the national government?

Senator Pimentel. Mr. President, I remember when we were discussing this similar issue when the original Organic Act was passed, the gentleman brought out a very cogent reservation in behalf of the central government which was to say that petroleum and other...

Senator Enrile. Strategic minerals.

Senator Pimentel. That is correct. I remember now. The gentleman used those very terms "Strategic resources" should be reserved to central government. As author of the Organic Act at that time and principal sponsor, I agreed to that proposal. That is why, if we reexamine the provisions of the Organic Act, we will find that the strategic mineral resources are exempted from the powers of the autonomous region.

Mr. President, during the Jakarta Agreement, it looks like there was a loosening of that restriction, so that even strategic mineral resources, if the wishes of the Jakarta Agreement were to be implemented, would now be reposed in the hands of the autonomous regional government.

The gentleman will notice that in subsequent lines in that same provision, we provided for an enactment of Congress within one year from the approval to define what are these strategic minerals that we want to reserve to the central government, otherwise the effect would be, "*sa inyo na iyan*." In other words, there is, more or less, a one-year grace period within which the central government has to exercise its powers so that petroleum and other strategic mineral resources which the gentleman had anticipated... How many years ago was that?

Senator Enrile. It was in the First Congress.

Senator Pimentel. Yes, it was in the First Congress, that the gentleman—

Senator Enrile. Eighth Congress.

Senator Pimentel. —had already anticipated the need for enabling the central government to have a say on these strategic mineral resources so that it can control and supervise the utilization of these resources.

Senator Enrile. Mr. President, if I may suggest, to avoid the seeming conflict between the phrase "subject to the provisions of the Constitution" and the phrase "grant of authority," we will refine these phrases in due course during the period of amendments to really clarify the matter.

Senator Pimentel. Yes, please, Mr. President.

Senator Enrile. Because, if I remember correctly, all sources of energy—water, power, and mineral resources—belong to the State.

Senator Pimentel. Yes, Mr. President.

Senator Enrile. Therefore, I have some doubts in my mind whether we can really devolve these to any local government unit in the face of the constitutional mandate. Maybe we could test it. But first, I would suggest that for the sake of clarity and to avoid any source of possible conflict between the national government and the regional government in the future, we must spell this out clearly in this Organic Act.

Second, Mr. President...

Senator Pimentel. Before the gentleman proceeds to the second point. Yes, at the proper time the committee will certainly welcome a refinement of this concept. May we also suggest, Mr. President, that any amendment should take into account the so-called IPRA or Indigenous Peoples' Rights Act because this Act impacts on certain minerals that are within the autonomous region, especially those that are within the so-called ancestral domains or lands of the indigenous people there.

Senator Enrile. I would like to thank the gentleman for that, Mr. President. Before I go to my next question on the text, first, is my understanding correct that when we call for the plebiscite, we will in effect submit this entire Organic Act to the people of the affected areas to pass upon, and whether they will approve this Organic Act; and second, if they approve the Organic Act, whether they want to be a part of the autonomous region?

Senator Pimentel. Mr. President, for the sake of clarity, we would like to reemphasize that the proposal calls for two

sets of plebiscitary questions. The first set is addressed to the present members of the autonomous region, meaning the four provinces. And the question, more or less, is: "Do you approve of the amendments to the Organic Act?" Just as simple as that.

The second set is addressed to the 10, now 11 additional province-member/would-be members of the expanded area and the 10 cities. I would like to emphasize again, Mr. President, that instead of only 10 new provinces as envisioned in the Jakarta Agreement, *magiging 11 na*, because of the division of Zamboanga del Sur. We have just approved the creation of a new province, Sibugay, *kaya 11 na ang bagong probinsiya*, plus the 10 additional cities that are proposed for inclusion in the autonomous region.

Now, the question will be differently worded: "Do you wish to become members of the Autonomous Region?"

Senator Enrile. Is it not correct to say, Mr. President, that we should ask them whether they would approve the Organic Act first and whether they would want to be a part of the autonomous region, assuming that they approved the Organic Act?

Senator Pimentel. Again, Mr. President, the proposal of the committee is an initial proposal subject to the wisdom of this Chamber. And we will have no objection if a refinement is done.

Senator Enrile. Or putting it in another way: "Do you want to be a part of the Autonomous Region; and if you do, do you approve of this Organic Act as presently worded to be the Organic Act of the Autonomous Region?"

Senator Pimentel. Probably, we will have to refine the wording some more and come up with a better expression of the plebiscitary question.

Senator Enrile. The reason I am raising that question is, when we adopted our Constitution, we went to the people and asked: "Do you approve of the Constitution to govern your lives?"

Senator Pimentel. Yes. However, if we have a two-pronged question for the would-be members of the expanded Organic Act, probably it will be a deception if we ask one question containing actually two clauses and expect them to answer only one—by "yes" or "no".

Senator Enrile. Yes, Mr. President. I think we have to think about the type of a question that we will propose.

Anyway, I will come now to another point. Section 12 on page 7 requires the regional assembly to adopt efficient and progressive system of succession which, among other things, shall provide incentives for the prompt payment of taxes and penalize tax evasion and delinquency. When we talk of progressive system of taxation, I suppose we are talking here of income tax. Are we saying that they can enact income tax law in the autonomous region?

Senator Pimentel. Income taxes are exempt, are outside essentially of the coverage of the autonomous region. Probably in other forms of taxation, a gradation of the taxes that are being collected could be possible. But, again, we have to refine this concept so that we do not mislead the people there in the autonomous region.

Senator Enrile. Thank you, Mr. President. I am just calling attention to this provision so that in the course of our effort to amend this proposed law, then we will take note of these things.

Now Section 15 says:

The Fundamental Rights and Duties -- The fundamental rights and duties of the people in the autonomous region are those defined in the Constitution and this Organic Act, as amended, the Geneva Convention, the United Nations Charter, the United Nations declaration on the rights of indigenous communities, the international declaration on human rights, as well as those prescribed in all the laws, practices, and principles binding upon members of the community of nations.

Mr. President, is there a need to enumerate these in this provision in this fashion?

Senator Pimentel. Mr. President, the committee really wanted to shorten that statement—the rights that are guaranteed by our Constitution. But, unfortunately, our hands are tied by the provisions of the Jakarta Agreement, because that is also spelled out not only there but also in the House version. So we try to accommodate as many...

Senator Enrile. And so this is in the Jakarta accord?

Senator Pimentel. Yes, Mr. President. *[Laughter]*

Senator Enrile. Mr. President, because it strikes me as something that grants more rights to the people of the autonomous region than those granted to the people at large in this country.

Senator Pimentel. There is one phraseology there that I would want to retain; and that is, the protection of the minorities, Mr. President.

Senator Enrile. That is correct, Mr. President.

Senator Pimentel. The gentleman and I know, Mr. President, the actual situation on the ground, as it were, and if there is no explicit statement of the protection of the rights of the minorities, the non-Muslim minorities in the area, the Christians particularly, and even the *Lumads*, are actually apprehensive that their rights might be...

Senator Enrile. They could become the *aliping saguiguilid* or the *aliping namamahay*.

Senator Pimentel. Yes, Mr. President, or the Kosovars in Kosovo.

Senator Enrile. That is correct. And I am just calling attention to this, Mr. President.

Now, I come to Section 1 of Article IV. It says: "The fundamental rights and duties of the people in the autonomous region are those established in the Constitution and this Organic Act, as amended." Does this Section 1 refer to Section 15 also, Mr. President?

Senator Pimentel. Mr. President, there was an error here and we are supposed to delete that.

Senator Enrile. Thank you, Mr. President.

Senator Pimentel. Thank you for bringing it up, anyway.

Senator Enrile. Mr. President, the autonomous regional government is authorized to have its own regional administrative code, and yet we have an Administrative Code applicable to the entire country.

Could the autonomous regional government adopt an administrative code different from the Administrative Code of the Philippines?

Senator Pimentel. Mr. President, that really is the intention of the provision and will therefore be, if adopted, a modification, a repeal, or an alteration of the jurisdiction or applicability of the Administrative Code as adopted by the central government. But only for purposes of the autonomous region.

Senator Enrile. Mr. President, I come now to Section 3,

page 9, under Article V, *Powers of Government*, and I refer to the enumeration.

Would international trade be within the competence of the regional autonomous government?

Senator Pimentel. My recollection, Mr. President, is that international trade as such should not fall within the exclusive competence of the autonomous region.

Senator Enrile. I imagine, Mr. President, that when we talk of international trade, that would be covered by our attention of the power of the national government over foreign affairs, because we will be dealing with foreign governments when we deal with international trade.

I just want to be sure that that is our understanding because during the period of amendments, I would probably propose to the gentleman that we spell out the exclusion of international trade from the competence of the regional autonomous government.

Senator Pimentel. That is correct, Mr. President.

Senator Enrile. My last question concerns Section 5 of Article V, *Representation in Central Government Departments, Offices*. Is it the understanding that the autonomous regional government will have to be represented in all departments and offices of the national government?

Senator Pimentel. Mr. President, that was the demand. That is why the House of Representatives, I think, wisely introduced the phrase "As far as practicable." That is a way out of the compulsion that at all costs, whether qualified or unqualified, we must put in representation of the autonomous regional people in the central government.

So, there is, we might say, an escape clause in the impossibility of complying with that demand that they should be represented in all levels of the central government.

Senator Enrile. Well, Mr. President, that is about all that I would like to ask the distinguished sponsor. I would like to thank the gentleman. Thank you, Mr. President.

Senator Pimentel. Mr. President, before we end, may I just put on the record that the regular releases and additional programming funds released to the autonomous regional government are as follows:

During the administration of Gov. Zacarias Candao covering the period July 1990 to June 1993, a total release of P2,608,000,031 was done;

During the administration of Gov. Liningding Pangandaman from July 1993 to September 1996, a total of P7,293,000,933 was done; and

During the administration of Nur Misuari from October 1996 to the present, a total of P15,969,000,194 was released to him, to his administration.

Senator Tatad. Is this in millions or billions?

Senator Pimentel. I am sorry, it is in billions.

Senator Tatad. All in the billions from Candao?

Senator Pimentel. Yes, I am very sorry, P2.6 billion for Mr. Candao; P7.2 billion for Mr. Pangandaman; and P15.9 billion for Mr. Misuari or a total of P25.8 billion and that is only to cover the releases to the autonomous regional government itself.

In addition, Mr. President, the local government units of the autonomous region received the following releases:

During the administration of Mr. Candao, P1.4 billion;

During the administration of Mr. Liningding Pangandaman, P5.8 billion; and

During the administration of Mr. Misuari is P13.7 billion, or a total of P21.070 billion.

A grand total, in other words, both the releases to the autonomous regional government and the releases to the local government units, is P46.9 billion from the start of the autonomous region up to the present.

These data are important, Mr. President, to disabuse the minds of people who claimed that the central government has been remiss in releasing funds intended for the autonomous region and for the local government units of the autonomous region. So, to repeat, a total of P46.9 billion has been...

Senator Tatad. From what year?

Senator Pimentel. From 1990 up to the present. In other words, from the first tenure of Gov. Zacarias Candao up to the present tenure of Gov. Misuari, a total of P46.9 billion has been released to the ARMM.

SUSPENSION OF CONSIDERATION OF S. NO. 2129

Senator Tatad. Mr. President, there being no further interpellation for now, although I have still several senators

who have reserved for interpellation, I move that we suspend consideration of Senate Bill No. 2129.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

MANIFESTATION OF SENATOR TATAD (Correction of the Word "Foundation" to "Commission" in His Speech)

Senator Tatad. Mr. President, may I just make a slight correction in my speech earlier this afternoon. I referred to an EDSA People Power Foundation. The word "Foundation" should read "Commission." Just for the record.

The President. All right, the manifestation is noted.

CONFERENCE COMMITTEE ON S. NO. 1742/H. NO. 9000 (Fair Election Practices Act)

Senator Tatad. Mr. President, I move that we now constitute the Senate panel to the Conference Committee on the Disagreeing Provisions of Senate Bill No. 1742 and its House counterpart. For this purpose, I hereby nominate Sen. Raul S. Roco as chairman; and as members, Senators Francisco S. Tatad, Vicente C. Sotto, Gregorio B. Honasan, Robert S. Jaworski, Teresa Aquino-Oreta, Renato L. *Compañero* Cayetano and Sergio R. Osmeña III.

I am sorry, the other Minority Leader has just been replaced by Senator Legarda-Leviste. So instead of Senator Cayetano, it should be Senator Legarda-Leviste.

The President. Senator Cayetano has been replaced.

Senator Tatad. Just for the Senate panel not...

The President. Only for the Senate panel.

Is there any objection? *[Silence]* There being none, the motion is approved.

CONFERENCE COMMITTEE REPORT ON S. NO. 1438/H. NO. 11692 (Kinder Plus: The Early Years Act)

Senator Tatad. Mr. President, we have now before us the Conference Committee Report on the Disagreeing Provisions of Senate Bill No. 1438 and House Bill No. 11692, the Early Childhood Care and Development Act.

For this purpose, I ask that the principal author and sponsor of the measure, chairman of the Senate panel, Sen. Teresa Aquino-Oreta be recognized.