

RECORD OF THE SENATE

TUESDAY, OCTOBER 17, 2000

OPENING OF THE SESSION

At 3:32 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

The President. The 28th 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. Anna Dominique Coseteng.

Everybody rose for the prayer.

PRAYER

Senator Coseteng.

Mahal naming Ama, Panginoon ng sanlibutan, Aming Diyos at Diyos na lumikha ng lahat ng nakikita at hindi nakikita, kami ay nagtitipon ngayon upang magbigay papuri at pasasalamat sa Inyong walang hanggang kadakilaan.

Kami ay dumudulog din sa Inyong harapan upang kami ay maging matibay sa lahat ng pagsubok at kapahamakan. Hinihiling namin na sana ay patnubayan Ninyo ang bansang Pilipinas at ang mga namumuno nito, ngayong aming hinaharap ang matinding pagsubok at krisis pang-ekonomiya at pampulitika. Pagliwanagin po Ninyo ang pag-iisip ng bawat isa sa amin upang magampanan namin nang wasto ang aming mga tungkulin.

Gayundin po, ang aming hiling para sa bawat mamamayan, ay magkaroon ng pagkakaisa at pagtutulungan na sana po ay isantabi ang pansariling kapakanan para sa kapakanan ng higit na nakararami. Basbasan po Ninyo ang bawat isa sa amin. Marapatin po ninyong malunasan ang pag-aalitang nananaig ngayon. Sa kalagitnaan ng mga isyung pampulitikang kinakaharap ng Pangulong Joseph Estrada at ng kanyang administrasyon, nawa ay katotohanan lamang ang mangibabaw dito at maisiwalat sa aming mga mamamayan ang lahat ng mga panig at kasama na rin ang iba't ibang karumaldumal na mga katiwalian noong panahon ng dating administrasyon nang may matitibay na ebidensiya sa ngalan ng katarungan.

Tulungan po Ninyo kami na makahanap ng lunas para sa suliraning pang-ekonomiya ng bansa. Nawa'y

ang tamang pag-iisip at kahinahunan at hindi karahasan ang maghari sa puso ng bawat Pilipino ngayon at sa oras ng kagipitan.

Magkaroon po sana ng katahimikan at kapayapaan dito sa aming bansa. Huwag sana kami magpadala sa mga mapanirang elemento na sakim sa kapangyarihan at nag-aabang lamang ng pagkaka-taong maibagsak ang pambansang ekonomiya at pamahalaan nang sila ay makabalik muli sa kapangyarihan.

Hanguin po Ninyo kami sa pagkalugmok at alisin po Ninyo ang kasakiman, inggitan, paninira, pagsasawalang-bahala at lahat ng hindi magandang pag-uugali sa aming mga isipan. Bagkus ito ay mapalitan ng pagtutulungan para sa isang maganda at matiwasay na kinabukasan.

Salamat po, Ama, sa lahat ng biyayang ipinagkaloob Ninyo. Mabuhay nawa kami nang naaayon sa Inyong kagustuhan.

Lahat ng ito ay aming hinihiling sa ngalan ni Jesus na aming Manunubos at ng Iyong Banal na Espiritu.

Amen.

The President. 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	Present
Senator Renato L. Compañero Cayetano	Present
Senator Anna Dominique M.L. Coseteng	Present
Senator Miriam Defensor Santiago	Present
Senator Juan Ponce Enrile	Present
Senator Juan M. Flavie	Present
Senator Teofisto T. Guingona Jr.	Absent
Senator Gregorio B. Honasan	Present
Senator Robert S. Jaworski	Present
Senator Loren B. Legarda-Leviste	Present
Senator Ramon B. Magsaysay Jr.	Absent
Senator Blas F. Ople	*

* On official mission but arrived after the roll call

The President. Referred to the Committees on Foreign Relations; and National Defense and Security

The Secretary. Letter from General Counsel Juan De Zuñiga Jr. of the Bangko Sentral ng Pilipinas, furnishing the Senate a copy of Bangko Sentral ng Pilipinas Circular No. 259, s. 2000, dated September 29, 2000, in compliance with Section 15(a) of Republic Act No. 7653.

The President. Referred to the Committee on Banks, Financial Institutions and Currencies

The Majority Leader is recognized.

BILL ON SECOND READING

S. No. 1595—Integrated Solid Waste Management Act of 2000 (Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 1595 as reported out under Committee Report No. 52.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 1595 is now in order.

Senator Tatad. Mr. President, this is the Solid Waste Management bill. Yesterday, we closed the period of amendments.

APPROVAL OF S. NO. 1595 ON SECOND READING

Mr. President, I move that we vote on Second Reading on Senate Bill No. 1595, as amended.

The President. Is there any objection? [Silence] There being none, we shall now vote on Second Reading on Senate Bill No. 1595, as amended.

As many as are in favor of the bill, say *aye*.

Several Members. *Aye*.

The President. As many as are against the bill, say *nay*. [Silence]

Senate Bill No. 1595, as amended, is approved on Second Reading.

SUSPENSION OF CONSIDERATION OF S. NO. 1595

Senator Tatad. Mr. President, I move that we suspend consideration of Senate Bill No. 1595.

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

SPECIAL ORDERS

Senator Tatad. Mr. President, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders, Senate Bill No. 2113, entitled

AN ACT STRENGTHENING THE GOVERNANCE AND DEFINING THE SCOPE OF THE PHILIPPINE SCIENCE HIGH SCHOOL (PSHS) SYSTEM, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 8496.

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

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, Sen. Aquilino Q. Pimentel Jr., be recognized. And for the interpellation, I ask that Sen. Miriam Defensor Santiago be likewise recognized.

The President. Sen. Aquilino Q. Pimentel Jr., the principal sponsor of Senate Bill No. 2129, is recognized. Sen. Miriam Defensor Santiago is recognized for the period of interpellations.

Senator Defensor Santiago. Mr. President, will the honorable sponsor yield the floor to me, please?

Senator Pimentel. With great pleasure, Mr. President.

Senator Defensor Santiago. Thank you. I am a former member of the faculty of UP College of Law and I went out of my way to seek the opinions and the comments of the professors in the UP College of Law who teach the subject of Local Government.

I am happy and proud to inform our colleagues that there is an undisputed consensus among these professors that, in

general, without discussing the specifics, the proposed Organic Act is decidedly superior to the existing one. I am therefore supporting actively this committee report and the resultant republic act.

I have certain points to make, not necessarily in the form of interpellation, but only as an expression of views or an attempt to elicit the comments of the distinguished sponsor.

This is the first point. The proposed measure seeks to change the name from "Autonomous Region in Muslim Mindanao" as presently provided by RA No. 6734 to "Muslim Autonomous Region in Mindanao." I would like to humbly point out that the Constitution in Article X, Sections 15 and 19 deliberately speaks of: "Autonomous regions in Muslim Mindanao and in the Cordilleras..."

If this phraseology of the Constitution is not prescriptive or is not intended to fix a specific name such as "Muslim Mindanao," then I would have no point to raise. But there is documentation to suggest that the Constitution is prescriptive and intends to fix a specific name "Muslim Mindanao."

I say this because the written records of the deliberations of the Constitutional Commission indicate that Commissioner de Castro argued that the phrase "Muslim Mindanao" seems to suggest strongly that the whole of Mindanao was composed of Muslims. As a result, he proposed that this phrase should be rephrased to read "For the Muslims of Mindanao."

It appears, however, that the Constitutional Commission disapproved the proposed amendment. In addition, then Commissioner Blas Ople, who is now our colleague, stood up to clarify that the phrase "Muslim Mindanao" actually refers to the old Moro homeland, more or less, defined in the Tripoli Agreement.

May I please have the comment of the distinguished sponsor on his opinion as to whether the Constitution should be read as prescriptive or not.

Senator Pimentel. Thank you very much, Mr. President, for that input.

I would like to say, in behalf of the committee, that the new phraseology which intends to call the region the "Muslim Autonomous Region in Mindanao" instead of the "Autonomous Region in Muslim Mindanao" actually arose from suggestions that the committee has picked up from the

consultations which we did in the four provinces which now compose the autonomous region as well as in the urban centers of the proposed expanded area of the autonomy, which means, 10 additional cities and 10 additional provinces, Mr. President.

My own view is that I do not think we will transgress the constitutional mandate if we alter the name in order to send a very clear message that there is an autonomous region in Mindanao, but not all of Mindanao is Muslim.

Mr. President, subject to the better judgment of our colleagues, this position is not very strongly endorsed by this representation.

Senator Defensor Santiago. In any event, I agree with the objectives sought as explained, and if that is the background against which we should read the present constitutional provision, then I shall withdraw any adverse comment. I mean, I shall refrain from making any adverse comment.

I would like now to go to my second point: RA No. 6734, the existing law which we are seeking to amend in Article IV, entitled Devolution of Powers, provides the following, and I would like to beg permission to quote:

SEC. 1. The fundamental rights and duties of the people in the autonomous region are those established in the Constitution and this Organic Act.

SEC. 2. The powers devolved to the autonomous region shall be exercised through the regional assembly, the regional governor and the special courts as provided in this Act.

I have two main questions with respect to Article IV, Section 1 and Section 2. The proposed measure, Article IV, entitled Devolution of Powers, did not include Section 2, but merely lifted *in toto* Section 1, Article IV of RA No. 6734. May I know why Section 2 was omitted?

Senator Pimentel. Mr. President, actually, there was no intent to omit Section 2. As a matter of fact, the new draft mentions Article IV, but actually enumerates a different set of provisions. That is why yesterday when it was taken up here on the floor, we made a comment that at the proper time, we will probably just delete the new provision and insert the old one.

Senator Defensor Santiago. Then in that case, there is no point of concern.

The next question is: Article VII, Section 18, provides:

The speaker of the regional assembly shall, within ten (10) working days from the approval thereof, submit to the President and to both houses of congress, a certified true copy of all laws and resolutions approved by the regional assembly.

I have three questions on this provision: a) Is it safe to assume that when the copies of the laws enacted by the regional assembly are submitted to the President and to the Congress, this submission is merely for record purposes and will not affect the entry into force of such laws?

Senator Pimentel. Basically, that is correct, Mr. President. And any question as to the validity of the law will have to be raised in another forum and not before Congress or before the Office of the President.

Senator Defensor Santiago. Before I proceed with the follow-up question, please allow me to make the following observation: The basic law of the Hong Kong Special Administrative Region under Article XVII also provides that the reporting of all laws enacted by the Legislature of the Hong Kong Special Administrative Region to the National People's Congress shall not affect the entry into force of such laws. However, unlike the proposed Act, the Hong Kong Law also provides:

If the standing committee of the National People's Congress considers that any law enacted by the legislature of the region is not in conformity with the provisions of this law (referring to the basic law for Hong Kong SAR or Special Administrative Region) regarding affairs within the responsibility of the central authorities or regarding the relationship between the central authorities in the region, the standing committee may return the law in question but shall not amend it. Any law returned by the standing committee of the National People's Congress shall immediately be invalidated.

Against that background, in light of the distinguished sponsor's clarification that the submission of the copies of the laws will not affect their entry into force, my follow-up question is: What will happen if those laws are not in conformity with the provisions of the proposed Act or with those of other existing laws, particularly those relating to the relationship between the central and the regional governments?

Senator Pimentel. Mr. President, first, the offending law emanating from the autonomous region may be invalidated,

let us say, by parties-in-interest going to the proper forum like the Supreme Court or any such tribunal to annul the law for being *ultra vires*, among other things.

Second, the President and the central government would have ample powers to withhold or reduce the financial allocations intended for the autonomous region as an act of pressure, shall we say, on the autonomous region to do something about it. That would probably be in the nature of an extralegal pressure that the central government can do, extralegal in the sense that that is not one of the things that are specifically enumerated as a remedy for a law that may be *ultra vires* as far as the autonomous region is concerned. But this pressure point that the central government may exercise over the autonomous region is actually spelled out in some other parts of this proposed bill.

Senator Defensor Santiago. Mr. President, the distinguished sponsor has correctly pointed out that the potential problem of an illegal piece of legislation can be solved, first, by means of the judicial remedy; and, second, by means of an executive or administrative remedy. Although the general rule is to seek court intervention for the judicial remedy, it might not be advisable in future cases concerning our present bill because we all admit that it takes the court a very long period of time to reach a decision. If that is the case, might it not be better if we include in our bill a provision that will, for example, empower Congress, after consulting with concerned authorities, to invalidate any illegal legislation or legislative issuance?

Senator Pimentel. Mr. President, I suppose that the plenary powers reposed in the Congress of the Philippines can very well address that situation should it arise. Perhaps, an amendatory phrase can be inserted in the section that the distinguished senator is referring to so that it is clear that Congress will have some powers, shall we say, of correction over a law that may not be authorized by the proposed amendments that we are now discussing.

Senator Defensor Santiago. I thank the distinguished sponsor for his hospitality to my proposal, and I will pursue it as he suggested during the amendments stage.

My next question concerns Section 3, Article IX, on the appointment of a member of the Judicial and Bar Council.

Upon the recommendation of the regional governor, in consultation with the concerned sectors of the autonomous region, once appointed, the appointee shall sit with the Judicial and Bar Council only to consider matters of appointments to judicial positions in the autonomous region.

The Constitution in Article VIII, Section 8, specifies or fixes the composition of the Judicial and Bar Council, and it is understood that the appointees are voting members and will participate in decision-making as to their recommendees for positions in the Judiciary.

Section 8, paragraphs 1 and 2, provide:

(1) A Judicial and Bar Council is hereby created under the supervision of the Supreme Court composed of the Chief Justice as ex-officio Chairman, the Secretary of Justice, and a representative of the Congress as ex-officio Members, a representative of the Integrated Bar, a professor of law, a retired Member of the Supreme Court, and a representative of the private sector.

(2) The regular members of the Council shall be appointed by the President for a term of four years with the consent of the Commission on Appointments...

Mr. President, I have three questions under this point:

Is the proposed member of the Judicial and Bar Council an additional member over and above the number and composition prescribed in the Constitution, and if so, will he be a voting member?

Senator Pimentel. Mr. President, in light of the observation of the lady senator, I must confess that we lifted this particular provision from the Jakarta Agreement and sort of proposed it in the hope that it can be accommodated within the purview of the present constitutional mandate. And so, probably, we can accommodate such a demand of the Muslim people of Mindanao as reflected in the Jakarta Agreement but within the numbers specified by the Constitution, as the lady senator very clearly pointed out.

The President. With the permission of Senator Defensor Santiago, maybe the representative can be an adviser as Senator Pimentel knows that there are advisers in the Judicial and Bar Council, is it not?

Senator Pimentel. Yes, Mr. President. As a matter of fact, since I sit there, with the remarks of the Senate President, I noticed that there are two advisers there in the present composition of the Judicial and Bar Council.

So, probably, Mr. President, the lady senator can make a refinement of that proposal so that we do not unnecessarily shoot it down and would give, let us say, the MNLF another

reason to say, "Look, they are not trying to comply with the provisions of the Jakarta Agreement."

Senator Defensor Santiago. Certainly, Mr. President. I shall cooperate with this objective, but since I am on the constitutional point, may I please raise another one which is related to the present constitutional point.

Our proposed bill provides that the person recommended by the regional governor shall first be confirmed by the regional assembly. I am concerned because appointment of the members of the Judicial and Bar Council, other than the ex-officio members, is required to be confirmed by the Commission on Appointments of the Constitution. So, may I please request a reconciliation between the constitutional provision and the provision of our present bill.

Senator Pimentel. Again, the lady senator proceeds from the argument that the Constitution fixes the number of people who would be members of the Judicial and Bar Council, and the procedure for confirming the appointment of these ladies and gentlemen who constitute the Judicial and Bar Council is set forth in the Constitution itself.

Now, as the Senate President pointed out, it is quite possible that we can make this representative of the Bangsa-moro or the autonomous region an extra member of the Judicial and Bar Council, probably in the nature of a consultant or an adviser. So, perhaps, we can retain the process and say, "All right, the regional legislative assembly, being the legislature for the autonomous region, will have the power to confirm the nomination of the regional governor for this consultant or adviser to the Judicial and Bar Council."

Mr. President, I would like to place on record my appreciation for these thoughts because I myself am beginning to see the refinement coming into play in these raw proposals that we have embodied in the bill to amend the Autonomous Regional Act.

Senator Defensor Santiago. Thank you very much.

Mr. President, as evidence and proof of my collaborative and cooperative attitude that I have previously signalled to our colleagues, I shall certainly be ready to engage in any meaningful research among the treasures of the English language to discover the proper term that can be used in our bill without offending the sensibilities of the Constitution.

Senator Pimentel. I thank the lady senator for that.

Senator Defensor Santiago. I will proceed to Article XVII, Sections 2 and 4; and to Article VII, Section 3.

Both of these provisions empower the Muslim Autonomous Region in Mindanao to enact a Regional Civil Service Law, which, and I have to quote:

...shall govern the conduct of the civil servants, the qualifications for non-elective positions and the protection of civil service eligibles in various government positions in the autonomous region.

The Constitution, Article IX (B), Section 1 provides:

(1) The civil service shall be administered by the Civil Service Commission...

Meanwhile, Sections 2 to 8 provide for general guidelines concerning appointments to, qualifications for, and termination of civil service positions.

I have two questions as a result of the juxtaposition of these two constitutional provisions:

Since the proposed measure gives the Muslim Autonomous Region in Mindanao some leeway in prescribing a Regional Civil Service Law, what is our guarantee that these measures proceeding from the autonomous region will not be contrary to what the Constitution provides?

Senator Pimentel. Mr. President, as a backgrounder, let me point out that, again, the provision allowing or enabling the regional government to prescribe its own Civil Service Code or enact its own Civil Service Code is a demand of the Jakarta Agreement. So we try our best to craft a provision that will not run counter to the constitutional provision that really recognizes the Civil Service Commission as the body that oversees and implements laws relative to employment, security of tenure, et cetera, in government.

Hopefully, we can find a way of accommodating this Jakarta Agreement demand in this amendment, probably by stating that the Civil Service Commission of the autonomous region operates as an adjunct of the Civil Service Commission of the nation. Maybe there is a way of doing that, and with the help of our distinguished lady senator, we probably can craft such a provision.

Senator Defensor Santiago. Certainly, such phraseology can be discovered. For example, it could provide that the Regional Civil Service Law shall be consistent with the Constitution, Article IX (B), or some set phraseology.

But in the search for the correct and appropriate terminology, I shall be happy to collaborate during the amendments period.

Senator Pimentel. Thank you, Mr. President.

Senator Defensor Santiago. Mr. President, I have finished with the major part of my interpellation. I only have what I would call footnotes.

The first footnote concerns Article V, Section 16, last paragraph.

Apparently, there is a typographical error. Perhaps, the words "National Labor Commission" should read instead as "National Labor RELATIONS Commission."

Senator Pimentel. That will be perfect, Mr. President.

Senator Defensor Santiago. Just one last footnote. I am referring to Article IV, entitled, Devolution of Powers, Section 1.

I wonder if the distinguished sponsor might be willing to revise or reword this section to mention or indicate devolution of powers to the people, if that is the meaning intended.

Senator Pimentel. Yes, Mr. President. Certainly, we will appreciate that clarification.

Senator Defensor Santiago. Mr. President, once more, I would like to express my wholehearted appreciation for the distinguished sponsor, Sen. Aquilino Q. Pimentel Jr.'s hospitality to the points that I have raised.

Thank you.

Senator Pimentel. Thank you, Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Mr. President, I ask that Sen. Loren B. Legarda-Leviste be recognized for the next interpellation.

The President. Sen. Loren B. Legarda-Leviste is recognized.

Senator Legarda-Leviste. Mr. President, will the distinguished gentleman from Mindanao respond to a few clarificatory questions?

Senator Pimentel. With pleasure, Mr. President.

Senator Legarda-Leviste. Section 2, Article X of Senate Bill No. 2129 provides, among others, that:

All accountable officials of the regional government shall, upon demand, furnish the Commission on Audit all documents, papers and effects necessary for the completion of the audit. Failure to do so shall empower the President or the Secretary of Finance to reduce, suspend or cancel the release of funds intended for the autonomous region to the extent of the amounts that cannot be audited for reasons attributable to the officials of the autonomous region or are unaccounted for after audit.

Mr. President, I am fully aware that the distinguished gentleman, of course, is the expert on the Local Government Code and is very knowledgeable on the concept of fiscal autonomy. That is the reason I seek clarification because I am quite surprised or astonished to see this proviso in the Senate bill.

I submit that this provision is a violation of the constitutional mandate on fiscal autonomy which is echoed under Section 6, Article X of the 1987 Constitution which says:

Local government shall have a just share, as determined by law, in the national taxes which shall be automatically released to them.

I am not a lawyer, Mr. President, but I think that the words of the Constitution are unambiguous, and therefore I believe that there is no room for interpretation. Thus, while the intent of the mentioned provision is very valid, that is to check on the possible excesses that may be committed by the regional government on funds, I believe that such a provision should be deleted, amended, or revised for being unconstitutional.

Having said all these, I believe that the first sentence of paragraph 3 of Section 2, Article X of the proposed bill is also unconstitutional for the same reason which I stated. May I, therefore, hear the distinguished sponsor's comment on this?

Senator Pimentel. I would like to thank the lady senator for those incisive comments. But I would like to point out that this particular provision that grants the central government, particularly the President, to suspend, delay, or even cancel the allocations or grants emanating from the central government to the Autonomous Region, in the event that the Autonomous Region does not account for the previous releases, is actually a defense mechanism being inserted in this Act to protect the funds of the government in light of recent events and the experiences with the Autonomous Region. It would seem, therefore, absolutely necessary for the reason that, for example, in the last several months, the lady senator

was even instrumental in bringing or convincing Governor Misuari to come to the Senate and explain before her committee what happened to the funds that had been allocated to the Autonomous Region.

But despite that appearance, Mr. President, up to now there is no clear-cut accounting of the amounts that have been disbursed to the Autonomous Region. Incidentally, to be fair, I am not referring only to the administration of Mr. Misuari. *Mula pa sa simula*, it looks like that there is a need for an extraordinary power to be given, at least, to the Office of the President.

Incidentally, there is also a provision that allows the Secretary of Finance to recommend the suspension, delay, or cancellation of funds should the Autonomous Region fail to cooperate with an audit being performed, especially by the central government.

The reason for that, if I may repeat, is that the experience shows that invariably, if there are audits sent over to the officials of the Autonomous Region, the audit officials would come back and say, "We have not been able to audit the records, the records are not complete, the papers are missing," or in a worst case scenario, outright threats are somehow relayed to them and the audit is not at all completed. So, we thought that probably by embodying this provision, they will be compelled to account for the money that are received by them.

Senator Legarda-Leviste. I would like to thank the distinguished sponsor for that explanation. While we agree that there is a necessary mechanism to make sure that these excesses are not done, could the distinguished sponsor, who is, incidentally, a lawyer, enlighten this representation whether this indeed... Because, to my mind, it looks as if it is really unconstitutional. It goes beyond Article X of the Constitution which says that the national taxes shall be automatically released to them. Therefore, if there is this provision in this proposed measure that this would not be followed, it would seem to me that this provision, though it may be necessary, could be unconstitutional.

Senator Pimentel. Mr. President, the automatic release actually entails several steps, among which, for example, is the need to determine the amount that will be released. Also, the releasing process goes through the Department of Budget and Management. Therefore, there are several steps that would somehow prevent the automatic release of these funds. Therefore, an additional precaution may not necessarily be unconstitutional. That is the humble submission of the Chair.

Senator Legarda-Leviste. Thank you, Mr. President. I will submit to the better judgment of the distinguished sponsor, but I want to put on record my concern for the autonomy of the local government unit, in this case, the ARMM government.

Since the distinguished sponsor also mentioned the appearance of Gov. Nur Misuari in the Economic Affairs Committee hearing held a few months ago, may I take this opportunity to clarify the misinformation in some media articles that the committee had cleared Gov. Nur Misuari. For the information of everyone in this Chamber, I realize and I know that the Economic Affairs Committee was not in any position to clear Gov. Nur Misuari. I had not done so, and I do not know how that information was stated. In fact, there were reactions from a few of our colleagues based on that news report which was baseless and inaccurate, to begin with. It was even mentioned that because she is a neophyte, she may not know. For the information of some of our colleagues, I may be a neophyte but I know the *Rules* and I know what to do as chairperson of the Economic Affairs Committee.

I would like, therefore, to stress that the Economic Affairs Committee never cleared Governor Misuari. All we said was that the figures then presented by Undersecretary Relampagos of the DBM and the figures presented by Governor Misuari of the ARMM were the same. In fact, the records of the hearing would attest to that. That is all, Mr. President.

May I then proceed to my second question?

Senator Pimentel. Yes, Mr. President.

Senator Legarda-Leviste. The last sentence of paragraph 3 Section 2, Article X of this bill provides:

Officials of the regional government who fail to submit the documents, papers and effects demanded by the Commission on Audit within the period specified herein may be suspended or removed from office by the President upon recommendation of the Secretary of Finance.

It was mentioned earlier by the distinguished sponsor.

Senator Pimentel. Yes, Mr. President.

Senator Legarda-Leviste. May I just be enlightened on who these officials contemplated under this provision are. Are they both the elected or the appointed officials? And may this include also the ARMM governor and the vice governor?

Senator Pimentel. Mr. President, there are specific provisions in the proposed bill that would cover the culpability or the process of disciplining the regional governor and the regional vice governor. In any event, the wording of this particular provision is so broad as to include any official of the ARMM, whether appointive or elective, who willfully frustrates the conduct of the audit sought by the central government. If it can be proven, for example, that the regional governor or the regional vice governor or any other elective official is actively preventing the completion of the audit sought by the central government, he would be culpable under this particular provision.

Senator Legarda-Leviste. And so, just to clarify, Mr. President, that would cover both the appointive and the elective government officials.

Senator Pimentel. That is correct, Mr. President.

Senator Legarda-Leviste. If this, therefore, covers the elected officials, Mr. President, does the gentleman not think that this would violate the due process clause of the Constitution for they are elected by the people? I believe that Congress must be more careful in imposing such sanctions or penalty, suspension or removal from office. I went through the provisions of this proposed measure and I did not see any provision on the disciplinary action that may be imposed against elected officials akin to Section 60 up to 68 of the Local Government Code of 1991.

During the period of amendments, Mr. President, I would suggest the inclusion of such provision which, I hope, the distinguished sponsor could accommodate.

Senator Pimentel. Yes, certainly, Mr. President. At the proper time, we will accept amendments to clarify and refine the concepts embodied in this bill.

Nonetheless, having said that, let me say that the actual suspension or disciplining of the officials, whether elective or appointive, in this provision will have to follow the strictures of due process.

Senator Legarda-Leviste. Thank you, Mr. President.

As mentioned by the distinguished sponsor, a few months ago the Senate Committee on Economic Affairs conducted a series of hearings on the proposed Mindanao aid plan, a resolution, I believe, filed by Senator Honasan, or what they call the "Mini Marshall Plan for Mindanao."

In one of the hearings conducted, Chairman Misuari appeared as one of the resource persons. He posited the

view that RA No. 6734 failed to address "the genuine political autonomy that the Bangsa-moro people aspired for."

We note that under Section 3 of Article III, *Devolution of Powers*, it says:

The regional assembly may not pass any law to diminish, lessen or reduce the powers, functions and shares in the internal revenue taxes of the said local government units...

This provision seems to restrict and limit rather than enlarge the autonomy of the regional government.

How then, may I hear, does this proposed measure address the Bangsa-moro people's call for genuine political autonomy?

Senator Pimentel. Mr. President, as the distinguished senator kindly pointed out, what is prohibited in that particular provision is the lessening or the reduction of the powers already enjoyed by the local government units, namely, provinces, cities, municipalities, and barangays within the area of the autonomy.

The reason for that is, it is a political realization that if we allow the autonomous government to reduce the powers of the provinces, cities, municipalities, and barangays, it would lead certainly to a resistance on the part of the areas being embraced in the expanded area of autonomy, resistance to their otherwise being included in the autonomous area. This, we have heard directly from concerned mayors, governors and public officials, not only in the area of the autonomy, as it is presently constituted, but even in the proposed area of the expanded autonomy. Because they said, "If we allow that to happen, it is better that we stay away because we enjoy more powers."

So, it is, shall we say, a real politic, a decision based on that apprehension.

Senator Legarda-Leviste. Thank you, Mr. President.

Section 12 of Article III grants the regional government the power to impose an efficient and a progressive system of taxation. Under the basic principle of governance, the State possesses three inherent powers, namely, the power of taxation, the power of eminent domain and the police power. Under the same principles, the State may delegate these inherent powers to its subdivisions, agencies and instrumentalities.

Would the proposed organic law explicitly grant the power of taxation to the regional assembly? The provisions are silent on the two other powers—the police power and the power of eminent domain.

May we know the reason for the absence of this explicit grant of such specific powers?

Senator Pimentel. If I am not mistaken, Mr. President, I think the power of eminent domain is mentioned somewhere in this bill. And even if it is not mentioned, it would be recognized because even ordinary provinces, cities and municipalities have that power.

As to police power, yes, that power is also recognized, whether stated explicitly or not in this bill.

Senator Legarda-Leviste. Therefore, are we then made to understand that the regional government may exercise the delegated power of eminent domain and police power?

Senator Pimentel. Certainly, Mr. President.

Senator Legarda-Leviste. Thank you, Mr. President.

Again, Section 12, Article III states that the regional assembly may provide incentives for the prompt payment of taxes.

Does the power to grant incentives include the right also to provide tax exemptions or tax holidays? And how do we reconcile this express grant in light of the constitutional provision that only Congress may allow tax exemptions through the concurrence of all its members?

Senator Pimentel. The tax exemptions and tax rebates that the regional government can extend refer to taxes that are being imposed by the regional government.

In other words, the regional government cannot exempt firms from complying with taxes that are imposed by central government, but as far as its own locally imposed taxes are concerned, yes, the regional government may do so.

Senator Legarda-Leviste. Thank you, Mr. President.

Section 10, Article III of the proposed Organic Act speaks of protection to women and children. We realize that one of the traditional customs of our Muslim brothers in very rural and traditional societies is to confine their wives to exclusively do household chores. On the other hand, the 1987 Constitution declares the right of women to enable them to realize their full potential in the service of the nation.

As an advocate of women's rights, how can we be assured through this proposal that Muslim women have their place in society by providing them with the right to engage in employment, especially in these times that incomes brought about by the husbands are inadequate to sustain the needs of the family?

Senator Pimentel. Mr. President, the inhibition against women working, earning their keeps in Muslim societies is probably a cultural thing. So that it will take time before we can really insist by a legal provision explicitly stating that women be allowed to work or to earn their own livelihood or whatever, along that line.

Now, let me point out however that there is a provision embodied in this bill that makes the grant of more funds to the autonomous region dependent on the recognition of basic human rights and probably, we can include this right of women that the lady senator is thinking about as one of those things that the autonomous region must implement if it is to avail itself of additional financial support or some such thing from the central government.

Senator Legarda-Leviste. I would appreciate the distinguished sponsor's acceding to the inclusion of that at the proper time, Mr. President.

At this time, I would like to thank the distinguished sponsor for kindly answering my questions.

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

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2129

Senator Tatad. There are no further interpellations for today, I therefore move to suspend consideration of Senate Bill No. 2129.

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

BILL ON SECOND READING

S. No. 2113 – Amending the Philippine Science High School Act of 1997

Senator Tatad. Mr. President, I move that we consider Senate Bill No. 2113 as reported out under Committee Report No. 383.

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

Consideration of Senate Bill No. 2113 is now in order. With the permission of the Body, the Secretary will read only the title of the bill without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 2113, entitled

AN ACT STRENGTHENING THE GOVERNANCE AND DEFINING THE SCOPE OF THE PHILIPPINE SCIENCE HIGH SCHOOL (PSHS) SYSTEM, AMENDING FOR THE PURPOSE REPUBLIC ACT NUMBER 8496

The following is the whole text of the bill:

Senate Bill No. 2113

AN ACT STRENGTHENING THE GOVERNANCE AND DEFINING THE SCOPE OF THE PHILIPPINE SCIENCE HIGH SCHOOL (PSHS) SYSTEM, AMENDING FOR THE PURPOSE REPUBLIC ACT NUMBER 8496

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. A second paragraph is hereby added under Section 2 of Republic Act No. 8496, otherwise known as the Philippine Science High School (PSHS) System Act of 1997, to read as follows:

"THE STATE SHALL ALSO ENSURE THAT EVERY REGION IS GIVEN EQUAL OPPORTUNITY TO BENEFIT FROM THE ESTABLISHMENT OF THE PSHS SYSTEM. TOWARDS THIS END, ONLY ONE (1) PSHS CAMPUS SHALL BE ESTABLISHED IN EACH OF THE ADMINISTRATIVE REGIONS OF THE COUNTRY."

SEC. 2. Section 3, paragraph (a) of the same Act is hereby amended, to read as follows:

"(a) Integrate the existing PSHS at Diliman, NUEVA VIZCAYA, CAMARINES SUR, ILOILO CITY, LEYTE, LANA DEL NORTE AND DAVAO CITY [Eastern Visayas, Western Visayas and Mindanao] into one system of governance and management;"