

RECORD OF THE SENATE

MONDAY, OCTOBER 2, 2000

OPENING OF THE SESSION

At 3:30 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

The President. The 22nd 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. Raul S. Roco.

Everybody rose for the prayer.

Senator Roco. This is a paraphrase from the "Prayer of St. Francis."

PRAYER

Lord, make us instruments of Your will;
Where there is ignorance, help us spread knowledge;
Where there is sadness, help us spread joy in the heart;
Where there is hunger, help us share our food;
Where there is thirst, help us share our water;
Where there are no jobs, help us spread opportunity;
Where there is confusion of policy, help us spread
clarity and direction; and
Where there is darkness of war, help us bring the
light of peace.

Amen.

The President. The 27th Ship for Southeast Asian Youth Program Delegates Tanglaw Batch 2000 will now lead us in the singing of the national anthem after which they will render a song entitled *Ako ay Pilipino*.

NATIONAL ANTHEM

Everybody remained standing for the singing of the national anthem.

The President. The Chair would like to express its gratitude to the 27th Ship for Southeast Asian Youth Program Delegates for that beautiful rendition of the national anthem and the song *Ako ay Pilipino*.

Thank you.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, reading:

Senator Teresa Aquino-Oreta	*
Senator Robert Z. Barbers	Present
Senator Rodolfo G. Biazon	Present
Senator Renato L. Compañero Cayetano ..	Present
Senator Anna Dominique M.L. Coseteng ..	Absent**
Senator Miriam Defensor Santiago	Present
Senator Juan Ponce Enrile	Present
Senator Juan M. Flavie	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	Present
Senator John Henry R. Osmenia	Present
Senator Sergio R. Osmenia III	Present
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 20 senators present, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

THE JOURNAL

Senator Tatad. Mr. President, I move that we dispense with the reading of the *Journal* of Session No. 21, Monday to Thursday, September 18 to 21, 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 to a Later Hour)

Senator Tatad. Mr. President, in view of the fact that there are a number of bills in our Calendar for Third Reading, I move

* On official mission

** On account of illness

Bill Nos. 80, 383, 384, 385, 522, 901, 1202, 1396, 1403, 1513, 1584, 1694 and 1735.

Sponsors: Senators Barbers, Defensor Santiago, Osmefia (J.), Flavier, Guingona Jr., Aquino-Oreta, Sotto III, Revilla, Biazon, Osmefia III and the members of the Committees on Public Order and Illegal Drugs; Constitutional Amendments, Revision of Codes and Laws; Finance; and Health and Demography.

The President. To the Calendar for Ordinary Business

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 now in the period of interpellations. I ask that the distinguished sponsor, the chairman of the Committee on Local Government, Sen. Aquilino Q. Pimentel Jr., be recognized; likewise, Sen. Rodolfo G. Biazon for the first interpellation.

The President. Sen. Aquilino Q. Pimentel Jr. is recognized; likewise, Sen. Rodolfo G. Biazon is recognized to interpellate.

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

For the record, I think we should insert this felicitous bit of news that Wilde Almeda and his group have just been rescued and are probably on the way already to Manila to be presented to the President. I think this is a welcome news considering the discouragement that a lot of people are feeling regarding the operations of the Armed Forces of the Philippines in Sulu.

Senator Biazon. Thank you, Mr. President. I wish we can verify the accuracy because the other information I have is that there is one who was able to escape.

Senator Pimentel. All 12 are apparently already in the hands of the armed forces.

Senator Biazon. Then that is a welcome news. I join the gentleman from Cagayan de Oro who is known as my political twin in the announcement.

Will the gentleman from Cagayan de Oro, Batac, Ilocos Norte, and the Republic of the Philippines yield for some questions?

Senator Pimentel. Willingly, Mr. President.

Senator Biazon. Mr. President, we are embarked on a serious and probably an important work in addressing the problem of Mindanao, specifically the problem with the Bangsa Moro people for which we are considering the amendment to the organic law.

There is no disagreement in the proposition that the military is not the solution to the problem. Even Marcos embarked on pursuing or shifting solution from that of a military one to a political one. That is why we have now the Tripoli Agreement under Marcos.

Then President Aquino even furthered that pursuit of political solution by the incorporation into the 1987 Constitution of the creation of an ARMM. President Ramos, on his own, also pursued further the solution by entering into an agreement with the MNLF that produced the Jakarta Accord, the SPCPD Agreement and the creation of the ZOPAD.

So, all previous presidents, before President Estrada, pursued a political and even economic solution.

Would the gentleman from Cagayan de Oro consider this possible amendment to the organic law as the centerpiece of the Estrada administration in finding a peaceful solution to the problem of Mindanao?

Senator Pimentel. Mr. President, whether or not it is a centerpiece or a sidepiece, the fact is that this is a serious attempt at establishing a just and lasting peace in Southern and Central Mindanao, in the hope that we can preclude the resort to armed violence which seems to be cyclical, if we look back at our history occurring at certain periods of so many years in that area. Therefore, we hope that we can act expeditiously on this matter for the reason that the House has already acted on its version and it is awaiting our own passage of this bill considering the circumstances now obtaining in our country.

Senator Biazon. I would like to thank the gentleman for that answer.

We have gone through several measures in our attempt to solve the problem in Mindanao which even drove the Philippine government to put into doubt the sovereignty of our country by allowing, for example, other country or countries, whether singly or collectively, to influence the crafting of this political solution. The Tripoli Agreement for one thing, brokered by the Libyan government back in 1975-76; then the Jakarta Accord brokered by the group of six of the Organization of Islamic Countries, and it had even influenced the creation of the SPCPD.

Mr. President, how much influence—this previous attempt at finding a solution on the degree of amendment—are we proposing on the existing organic law? Is this amendment to the organic law an implementation of these agreements in the past?

Senator Pimentel. Mr. President, just like the gentleman, I have my own reservations about the propriety of foreign countries, in effect, intervening into the domestic affairs of this Republic. Nonetheless, I think that it is now too late in the day to turn the pages of history back, or the checking of the hand of time because this is a matter that is already facing us. It is done.

For example, the Jakarta Agreement, which the gentleman is referring to, was signed, endorsed and approved by the government of former President Ramos and signed by the MNLF under the leadership of now ARMM Governor Nur Misuari, under the auspices of the Jakarta government more specifically. In fact, that is why the agreement is called the Jakarta Agreement.

Now, if we look at the proposed amendments, Mr. President, we are hewing as closely as possible to the terms and provisions of the Jakarta Agreement, and, in fact, in some areas we are widening the scope of that agreement. Anyway, we are trying to preempt the thrust of that agreement which is to establish a basis for a just and lasting peace by incorporating certain amendments that are of the committee's making.

Senator Biazon. I would like to thank the gentleman, Mr. President.

The reason I am pursuing this line of questioning is this: In all those treaties or all those agreements and solutions agreed upon between the government and the MNLF—specifically Misuari—in the past discussions and especially in the consultations that we did, the representatives of Misuari always focused on the question of the existing organic law, which was not really providing what they call “genuine autonomy.” This is the issue they are raising with the existing

organic law which probably is the reason we are now proposing for the amendment of this existing law.

Now, Mr. President, since this is in response to the issues raised by the MNLF and considering that the MILF rejected all these solutions—put into place by this agreement between the government and the MNLF—is there any input, therefore, in these proposed amendments from the side of the MILF?

Senator Pimentel. Mr. President, the gentleman is aware just like the rest of our colleagues that our committee took pains of holding consultations not only in the urban centers of the four-member province autonomous region, but also in the urban centers of the 10 provinces and 10 cities that are proposed for inclusion in the autonomous region.

Now, while these consultations were going on, Mr. President, the gentleman also knows that negotiations were also being conducted between the MILF and the government which unfortunately collapsed sometime in March or April of this year, if I am not mistaken. We have tried to project what the MILF would probably find acceptable and we included these in the proposed amendments. For example, making sure that the ancestral domain issue, both for the Muslims and for the *Lumads*, are included in the draft amendments proposal, and also the expansion of the Shari'ah law which I do not think would be objectionable but, in fact, would be welcome by the MILF. There is also a provision in the proposed amendments that would, in effect, assure the proposed area of the expansion of the autonomy to have primary jurisdiction in the matter of development and utilization of its own natural resources.

So these are the things, Mr. President, that the MILF has been also talking about in broad terms. And in the absence of a specific agreement entered into between the government and the MILF as a result of the negotiation—absent that—the best that we can do is to project that some provisions that are now in the proposed amendments would be acceptable to the MILF as well.

Senator Biazon. Thank you, Mr. President. This is exactly why there is a need for us to examine the proposed amendments and even the existing laws. In some hearings here and in some other fora attended by this representation where known political, traditional, religious and even academic Muslim leaders were present, there was one issue that I sought clarification with them. This is when I asked the question as to whether or not Nur Misuari of the MNLF could represent the voices of all the Bangsa Moro people in all of our Islamic communities.

And these leaders, if I may name a few, Mr. President, included former Congressman Michael Mastura, Ambassador Lucman, for example, Ferdouzi Abbas, Prof. Samuel Tan of the University of the Philippines, and some representatives from the family of the Pendatuns and the Dimaporos.

When I asked the question: "Could Misuari be the representative voice of all the Bangsa Moro people?", they, in unison, answered in the negative.

When I asked the question whether or not Hashim Salamat could represent all the voices of the Bangsa Moro people, the answer is the same—in the negative.

Definitely, I said: "You would not accept a proposition that the Abu Sayyaf would be the representative of the voices of the Bangsa Moro people for obvious reasons."

And so my fear is this, Mr. President. Since much of the provisions of the existing organic law—and probably the proposed amendments to this organic law—are much influenced by the existing agreements between the government and the MNLF and the results of our own consultations, if the talks with the MILF are resumed and we come into an agreement with the MILF, there is a possibility that Misuari would reject it. Therefore, we would be back to square one.

Mr. President, we need more or all of the time still available in our hands because this is time-bound for us to examine these proposed amendments.

So, I would like to defer the present questioning to some future time. I do hope that between now and then—until the deadline we are seeking—, we should concentrate more on this measure before the floor because this is urgent.

So, Mr. President, I would defer further questioning until I am able to examine all these proposed amendments.

Thank you.

Senator Pimentel. May I, on behalf of the committee, Mr. President, reply to the concerns raised by the gentleman.

One of the reasons, among other things, this discussion has not reached the floor earlier is precisely the fact that this chairman and the Senate committee hoped that the negotiations between the MILF and the government would come to some definitive conclusions, so that whatever is included in that agreement could conceivably be made a part of the proposed amendments also.

Now, our specific problem here is that, if we do not get this moving, Mr. President, then time would also be running out on us as defined by the premises and provisions of the Jakarta Agreement, precisely because we have no wish to provide more argumentative ammunition in favor of Mr. Misuari or those who are seeking an earlier enactment of our legislature on the requirements of the Jakarta Agreement. We have to take this definitive action in spite of the absence of the agreement between our government and the MILF.

Our Chamber will kindly note that the provisions defined in the proposed amendments are not designed to address only the concerns of Mr. Misuari and the MNLF. They are broader than that and I would like to say that they are responding to the concerns of the Bangsa Moro in general. I agree with the gentleman that it would be foolhardy for us to craft any legislation that is geared to answer only the concerns of a specific Moro tribal group. Because if that is the case, Mr. President, then we will never be able to address the problems that recur in Southern and Central Mindanao.

So, Mr. President, we hope that with these thoughts, we would have underscored the need for a fast and definitive action on the part of this Chamber which is emphasized by the presence of Ambassador Yan and Secretary Aguirre who are in the gallery precisely to enable us to see the urgency or the need for the passage of these amendments as soon as we can without prejudicing, of course, or neglecting or overlooking the concerns that have been raised by Senator Biazon.

Senator Biazon. Yes, Mr. President. I agree with the gentleman that we need to pass this on a certain deadline because this is time-bound. There are constitutional and political processes that we have to contend with mandated by political actions needed by the government.

Therefore, we need to finish this quickly and on time. However, Mr. President, we are trying to harmonize great differences in three or four major areas. For example, we are trying to harmonize two concepts of ownership of properties. We are trying to harmonize our national concept of property covered by the Torrens title or individual ownership. The so-called ancestral domain concept is a complete opposite of this where there seems to be a feudal-like system of ownership that is being proposed by the proponent of a complete autonomy for the Bangsa Moro people. And considering the difficulty of resolution, for example, of conflict between citizens of this country who may be covered by these two sets of concept of ownership, then we really have to examine and probably plug the holes, if there are holes to be plugged, before we move on.

The second area of conflict, Mr. President, is the concept of justice. We have our national courts and our national laws. Yet, the Bangsa Moro is pushing for the adoption of the Shari'ah court which has some basic fundamental differences with our concept of laws. For example, in the case of murder where the payment of blood money could be a mechanism for the resolution of the case in court.

The third area of conflict, Mr. President, is merging with our national curriculum as far as education is concerned—especially the primary and the secondary level education—the *madrasah* concept of education. And so, with these three fundamental differences or concepts that we are trying to merge with one another, that we are trying to harmonize with one another, we really need to examine more closely the degree of autonomy that probably we are trying to define through this amendment, Mr. President.

Senator Pimentel. The gentleman is correct, Mr. President. Just a preview of what the amendments entail—No. 1 is on the question of the Torrens title.

The general principle is that the Torrens title will be respected, but subject to proof as to whether or not certain frauds were really committed and entitling the person or persons or tribal groups that were prejudiced by the fraudulent acquisition of title to some compensation that is being defined also in the proposed amendments.

On the issue of Shari'ah, Mr. President, we are proposing that the Shari'ah be strictly enforced only between Muslims and if the controversy would entail cases between Muslims and non-Muslims, then the national law will prevail. And even in the application of the Shari'ah, the provisions of the Constitution will certainly act as a restraint on what would be considered as cruel and unusual punishment in this country. And on the gravity of the offense, we can probably insert some limitations that the Shari'ah may not apply in very serious cases like murder.

On education, I would like to point out, Mr. President, that our committee recommended the adoption of a core curriculum for our public schools even as the autonomous region can add their own requirements for their *madrasah* system of education. But the core curriculum in all levels of education would be necessary to enable a Muslim student to transfer to any school later on from Jolo to Cebu. For example, if his or her parents go to Cebu, she could enroll and be accredited at the level next to that which she had completed or which she is about to complete from the schools in the autonomous region.

Senator Biazon. Mr. President, I would like to focus on

the first area of conflict. This is the Torrens title as a concept against the ancestral domain concept of ownership.

Yesterday, I was in conference with three brigade commanders and one representative of the division commander of the MILF in Lanao del Sur and Lanao del Norte. We were exploring the possibility of putting together a program by government to attract disgruntled MILF elements—disgruntled because they are in disagreement with Hashim Salamat's declaration of a *jihad*. And one of their basic requests is the resolution of land disputes among Christians and Muslims specifically in the towns of Bacolod, Kauswagan, Linamon, Matungao and Baloi—all in Lanao del Norte.

The reason is that right now, Lanao del Norte is dominated by Christians, the ratio being 85 percent Christians and 15 percent Muslims.

Mr. President, during the attack of Kauswagan and the subsequent clearing by the Armed Forces of the Philippines that took them all the way up to Camp Abubakar, the Muslims evacuated and they have not yet returned; and yet these Muslims are titleholders to these pieces of land. But the Christians—not all the Christians but some bad elements among the Christians—wanted to perpetuate the condition of unpeace because right now these bad Christians are the ones harvesting the crops of the Muslims in those parts. In the middle of this conflict is the land dispute because many of the Muslims still claim that the concept of ownership that should prevail is the concept of ancestral domain. On the other hand, of course, we have to respect our Torrens-title concept.

And so they are asking, Mr. President, if we can look into this issue of land dispute because this is a blood-and-guts issue to them, and in the middle of the conflict in those towns is this land dispute. That is why, if I will be allowed to resume my interpellation in succeeding sessions, I will be focusing on some parts of this basic and fundamental issue.

Senator Pimentel. Yes, it is for that reason, Mr. President, that as a general principle, the committee has recommended that despite the issuance of a certificate of title under the Torrens system, the tribal groups or individual Muslim or non-Christian occupant or tiller of a soil should be allowed to question the issuance of a title, which normally, would be precluded already if it had been issued several years back.

As a matter of fact, under the Torrens system, if I recall it correctly, one year after the issuance of a title, the title becomes indefeasible. But we are making an exception precisely because we recognize that the situation obtains in certain Muslim areas as described by the distinguished

gentleman. But what we have are general principles, which can be refined if the need is felt to do so.

Senator Biazon. Thank you, Mr. President. May I then request that I be allowed to defer my questions at a future time.

Senator Pimentel. Thank you very much.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2129

Senator Tatad. Mr. President, with that manifestation, I move that we suspend consideration of Senate Bill No. 2129.

The President. May the Chair know if the Minority Leader will not continue? He was on the floor the last time this bill was considered. He suspended his interpellation.

Senator Tatad. The Minority Leader wishes to interpellate tomorrow.

That being the case, Mr. President, we would like to remind the Chamber that at the instance of the Senate President, we have distributed an outline of the proposed arrangement by topics to make it easier for our colleagues to attack this very large measure. But of course, this is a free Chamber.

Senator Roco. Mr. President.

The President. Yes, Senator Roco.

Senator Roco. After the motion is acted upon.

The President. All right. There is a motion to suspend consideration of Senate Bill No. 2129. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Roco is recognized.

SUSPENSION OF SESSION

Senator Roco. I move that we suspend the session for one minute, Mr. President. I will clear it with the Majority Leader.

The President. The session is suspended for one minute, if there is no objection. *[There was none.]*

It was 6:19 p.m.

RESUMPTION OF SESSION

At 6:31 p.m., the session was resumed.

The President. The session is resumed.

Senator Tatad. I ask that Senator Roco be recognized.

The President. Senator Roco is recognized.

Senator Roco. With the permission of the Majority Leader, Mr. President, we requested a special order on the absentee-voting bill, even if just to progress the debate for tomorrow and Wednesday, and the Minority Leader graciously consented. So for those who may want to have questions on the absentee-voting bill, it will be appreciated if the questions can be made ready in the next couple of days.

The President. The said absentee-voting bill is already on Special Orders. It is in the period of interpellations, in fact.

Senator Roco. Just for Tuesday and Wednesday, so that it is called at the time when the Minority Leader will feel it is appropriate.

Senator Tatad. We will call it pursuant to that proposal, Mr. President.

ADJOURNMENT OF THE SESSION

Mr. President, there being no further business, I move that we adjourn the session until three o'clock tomorrow afternoon.

The President. Is there any objection? *[Silence]* There being none, the session is adjourned until three o'clock tomorrow afternoon, Tuesday, October 3, 2000.

It was 6:33 p.m.