

RECORD OF THE SENATE

THURSDAY, OCTOBER 20, 1994

RESUMPTION OF THE SESSION

At 11:01 a.m., the session was resumed with the Honorable Edgardo J. Angara, President of the Senate, presiding.

The President: The session is resumed.

ROLL CALL

The President: The Secretary will please call the roll.

The Secretary:

Senator Heherson T. Alvarez	Present*
Senator Agapito A. Aquino	Present*
Senator Rodolfo G. Biazon	**
Senator Anna Dominique M.L. Coseteng ..	Present*
Senator Neptali A. Gonzales	Present
Senator Ernesto F. Herrera	Present
Senator Jose D. Lina, Jr.	**
Senator Gloria Macapagal	Present*
Senator Ernesto M. Maceda	Present
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present
Senator John H. Osmeña	Present
Senator Santanina T. Rasul	Present
Senator Ramon B. Revilla	Present*
Senator Raul S. Roco	Present*
Senator Alberto G. Romulo	Present
Senator Leticia R. Shahani	Present*
Senator Vicente C. Sotto III	Present*
Senator Wigberto E. Tañada	Present
Senator Francisco S. Tatad	Present
Senator Arturo M. Tolentino	Present
Senator Freddie N. Webb	Present*
The President	Present

The President: With 12 Senators present, the Chair declares the presence of a quorum.

THE JOURNAL

Senator Romulo: Mr. President.

The President: The Majority Leader is recognized.

Senator Romulo: Mr. President, we have the *Journal* of

* Arrived after the roll call

** On official mission

Session No. 33 for Tuesday and Wednesday. I move that we dispense with the reading of the *Journal* of this session and consider the same as approved.

The President: Is there any objection? [*Silence*] Hearing none, the reading of the *Journal* of the 33rd session of October 18 and 19 is dispensed with and the same is considered as approved.

The Secretary will now proceed with the reading of the Additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

COMMUNICATIONS

The Secretary: Letter from Commissioner Sofronio B. Ursal of the Commission on Audit submitting to the Senate the 1993 Annual Financial Report for Local Governments (Volume III) showing, among others, the financial condition as of December 31, 1993 and the results of operations for the year then ended.

The President: Referred to the Committee on Finance.

The Secretary: Letter from Governor Gabriel C. Singson of the Bangko Sentral ng Pilipinas submitting to the Senate the list of Central Bank Circulars issued in 1993 which affect rural banks as well as the objectives for their issuance.

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

The Secretary: Letter from Edgardo P. Zialcita, Officer-in-Charge of the Bangko Sentral ng Pilipinas submitting to the Senate the report on the major economic and financial developments in the Philippines during the second quarter of 1994.

The President: Referred to the Committee on Economic Affairs.

COMMITTEE REPORTS

The Secretary: Committee Report No. 599 submitted by the Committee on Agriculture and Food on Proposed Senate Resolution No. 718, introduced by Senator Webb, entitled

RESOLUTION URGING AN INQUIRY, IN AID OF LEGISLATION, INTO THE REPORTED EXISTENCE OF ILLEGAL FISHPENS AND CAGES AROUND LAGUNA DE BAY, CAUSING PREJUDICE TO SOME 3,000 ORDINARY FISHERMEN,

The President: The session is resumed.

BILL ON SECOND READING
Senate Bill No. 1913 - Party-List System
(Continuation)

Senator Aquino: Mr. President, I move that we resume consideration of Senate Bill No. 1913 as reported out under Committee Report No. 583.

The President: Resumption of consideration of Senate Bill No. 1913 is now in order.

Senator Aquino: We are now in the period of interpellations. I ask that Senator Tolentino, the Sponsor, and Senator Gonzales, who will interpellate, be recognized.

The President: Senator Tolentino and Senator Gonzales are recognized.

Senator Tolentino: Thank you, Mr. President.

Senator Gonzales: Will the distinguished Sponsor allow a few more clarificatory questions?

Senator Tolentino: Very gladly, Mr. President.

Senator Gonzales: Mr. President, I understand that, for purposes of this new party-list system of voting, a voter shall be entitled to two votes. The first is a vote for the candidates for Members of the House of Representatives in his legislative district, which, for brevity, we will call as the regular Members of the House of Representatives; and the second, a vote for the party, organization, or coalition he wants represented in the House of Representatives. So that this may be contained in one ballot, only that there is a space that would be allotted for the party, organization, or coalition to be represented under the party-list system. Is that correct.

Senator Tolentino: That is correct, Mr. President.

Senator Gonzales: There need not be two ballots for this purpose.

Senator Tolentino: Actually, we do not need two ballots. There will be just two spaces that would be for Members of the House of Representatives and the ballot.

Senator Gonzales: Mr. President, which of these votes shall be considered for purposes of determining the proportion of representation of the party, organization, or coalition in the House of Representatives?

Senator Tolentino: Only the vote for the party or organization is to be considered for purposes of the proportional representation of parties or organizations in the House of Representatives.

Senator Gonzales: So that the votes for the regular Members of the House of Representatives will not be included in such a determination.

Senator Tolentino: That is right, Mr. President.

Senator Gonzales: In short, if a voter votes for the official candidate of the Lakas-NUCD or LDP or NPC, those votes will not be included in reckoning the proportion of representation that a political party, organization, or coalition is entitled in the apportionment of the party-list members.

Senator Tolentino: Yes, Mr. President. The vote for the individual candidates by congressional district will be entirely separate from the vote by parties or organizations under the party-list system.

Senator Gonzales: So that the party, organization or coalition that has applied for and was accredited for purposes of the party-list voting need not field candidates for any position?

Senator Tolentino: Yes, Mr. President. Usually, if it refers to the political parties already engaged in electoral exercises before, these parties have already been registered as such political parties for the political exercise. But in order to be able to be included in the party-list system, it will require another manifestation of the intention to participate in the party-list system.

Senator Gonzales: Mr. President, I understand that under Section 5 in paragraph (7) of this bill, there are grounds for the refusal and/or cancellation of registration. One of the grounds for refusal and/or cancellation of registration is "Failure to participate in the last two (2) preceding elections or its failure to obtain at least ten percent (10%) of the votes cast under the party-list system in either of the last two (2) preceding elections for the constituency in which it has registered."

In short, would this particular ground be applicable even at the first and second elections following the approval of this bill?

Senator Tolentino: This ground, paragraph (7), obviously will not be applicable for the first and second election under the party-list system. If we begin this election under the party-list system in 1995, that means in 1995 and 1998, this paragraph cannot yet be invoked.

Senator Gonzales: I think we ought to make that clear, Mr. President, because this ground is enumerated on the same level as the seven other grounds for the refusal and/or cancellation of registration. Does the Gentleman not think so, Mr. President?

Senator Tolentino: Yes. Any one of these grounds would be equally applicable for refusal or cancellation of registration.

Senator Gonzales: But not with respect to ground No. (7), at least during the first two elections following the approval of this bill.

Senator Tolentino: Yes, Mr. President.

Senator Gonzales: Since that is a ground for a refusal or cancellation of registration for a political party, group, organization, coalition or even a sectoral group, it need not field candidates but merely files an application for participation in the party-list system of voting.

Senator Tolentino: I did not get the point, Mr. President. I am sorry.

Senator Gonzales: The question I am propounding, Mr. President, is this: To enable a political party, an organization or a sectoral group to enjoy the benefits and privileges of the party-list system under this bill, is it required to field candidates in an election?

Senator Tolentino: That will be optional, I think, with the way a party or a group that registers for this party-list election. Even if it is registered, it is not required to field candidates. But the failure to field candidates may affect its status in subsequent elections.

Senator Gonzales: On the other hand, Mr. President, under ground No. (7) of Section 5 — there are actually two grounds — it states: "Failure to participate in the last two (2) preceding elections or its failure to obtain at least ten percent (10%) of the votes cast under the party-list system in either of the last two (2) preceding elections for the constituency in which it has registered."

In short, the first ground is that, it failed to participate in the last two (2) preceding elections. The second is, failure to obtain at least 10 percent of the votes cast under the party-list system in either of the last two preceding elections, Mr. President.

Senator Tolentino: Actually, these are two separate grounds.

Senator Gonzales: There are actually two grounds, Mr. President?

Senator Tolentino: Yes, Mr. President.

Senator Gonzales: Does this bill contemplate a situation where, let us say, a political organization or a sectoral group can participate in an election through the party-list system only as such without fielding candidates, Mr. President?

Senator Tolentino: It seems that is covered by the next paragraph. When the disqualification would apply to a group seeking registration or already registered, it fields candidates in the legislative districts during the election in which it participates under the party-list system.

It seems that what is intended here is that the group participating in the party-list system does not participate at the same time in the regular election by districts.

Senator Gonzales: That is my understanding of this provision as it is written, Mr. President.

Senator Tolentino: Yes, Mr. President.

At this juncture, the Senate President relinquished the Chair to Senator Ernesto M. Maceda.

Senator Gonzales: More important is, under Section 12, which is captioned "Procedure in Allocating Seats for Party-List Representatives", it provides, and I quote:

The Commission shall tally all the votes for the parties, organizations, or coalitions on a nationwide basis, rank them according to the number of votes received as against the total number of registered voters nationwide, and allocate party-list representatives proportionately according to the percentage of votes obtained until all seats are filled up.

It would seem to me that, as the distinguished Gentleman has stated in answer to my earlier question, while a voter is entitled to two votes — one for the regular Members of the House of Representatives; and two, for the party organization or coalition he wants represented in the House of Representatives through the party-list system — then this could only refer to the second vote, not a vote for the regular candidates, but only a vote for the party, organization or coalition. Is that correct, Mr. President.

Senator Tolentino: Yes, Mr. President, that is correct.

Senator Gonzales: It seems clear now that it is the intent of this bill. Mr. President.

Senator Tolentino: Yes, Mr. President.

Senator Gonzales: So, we can now say that even if we have a party presenting candidates for the regular Members of the House of Representatives but has not filed nor applied under the party-list system, then it cannot be entitled to any allocation of the seats which are intended for the party-list members.

Senator Tolentino: Yes, Mr. President, to the extent that even if a voter should cast a vote for that particular party, that vote will be null and void. It cannot be counted.

Senator Gonzales: Since the party-list members, under the Constitution, shall be 20 percent of the regular members, and unless the present membership of the House of Representatives is changed by law, will be 200, under this bill they have been further classified into three groups or 30 percent for the political parties; 30 percent for the regional parties or organizations; 40 percent for the sectoral organizations. The proportion in each group will not be the same, depending upon the number of political parties or regional organizations and sectoral organizations that have applied for the party-list system duly approved, filed and certified by the Commission on Elections.

Senator Tolentino: Yes, Mr. President. Actually, the provisions here indicate that there will be three categories. The first is the national parties; the second is the regional parties; and the third is the sectoral organizations.

Assuming that the basis will be the 50 additional members, that is 20 percent of 250, that means that out of the 50 seats reserved for the party-list system, 15 — that is 30 percent of 50 — will go to the national parties; 30 percent or 15 also will go to the regional parties; and 20 — the remaining 40 percent — will go to the sectoral organizations. So, there will actually be three groupings, as the distinguished Gentleman has indicated. Those who participate within these three groupings will then be ranked according to the number of votes they received in relation to the total number of votes cast for that group. So, there will be a proportional distribution within each group.

Senator Gonzales: The proportion in one category may not necessarily be the same as in the two other categories.

Senator Tolentino: That is correct, Mr. President.

Senator Gonzales: What happens in case of a coalition of political parties and they are participating as political parties, but they have entered into a coalition? Will they be entitled to a separate proportionate seat, or will they be counted only as a coalition?

Senator Tolentino: Mr. President, what is going to be

registered actually, for purposes of the party-list voting, will be the coalition, not the parties composing the coalition. Therefore, the vote will be for the coalition.

Senator Gonzales: And they cannot be voted on as a coalition?

Senator Tolentino: No, they will be voted on as a coalition precisely. They cannot be voted separately as parties, because the registration is the registration of the coalition. So, it is the registered organization that will be entitled to the party-list voting.

Senator Gonzales: Let us say, Mr. President, that the coalition is not registered as such and it is only a working tactical arrangement, but is registered as separate political parties, but field a common slate.

Senator Tolentino: If it is not registered as a coalition, for purposes of the party-list system, then it will not be entitled to a vote as a coalition. At the same time, since the separate or individual parties composing the coalition are not also registered as separate parties, no vote can be considered for them. They have to be registered either as a party or as a coalition in order to be entitled to receive party-list votes.

Senator Gonzales: Precisely, Mr. President. They have registered separately as political parties. But, as a reality, they have adopted a political scheme wherein they present a common ticket. So there is a political *modus vivendi* or working arrangement among them. In such a case, will each of them, as duly registered political parties, be entitled to a proportionate share in the party list?

Senator Tolentino: I think so, Mr. President, if the parties themselves are separately registered. They will be entitled to the proportionate number of seats, if they individually received votes.

Senator Gonzales: Yes. But they cannot be voted on as a coalition in the space that is set aside for the party-list system of voting?

Senator Tolentino: They cannot be voted on as a coalition.

Senator Gonzales: And if voted, the same will not be counted.

Senator Tolentino: Yes, that will be a null and void vote.

Senator Gonzales: Would the distinguished Sponsor know how many registered political parties or political organizations we have now?

Senator Tolentino: I really do not know the actual figures now, Mr. President. I think the Comelec has cancelled certain registrations because of the small number of votes that had been received in the last elections. I do not know how many have actually been left now.

Senator Gonzales: Mr. President, I understand that there are more than 100 registered political parties, although under the law that we have enacted, not all of them are entitled to accreditation. Because registration is one thing; accreditation is another. Is that not how our law operates, Mr. President?

Senator Tolentino: I do not have the figures of the actual number of registered parties. But I have the impression that they are over a hundred.

Senator Gonzales: Yes. Because aside from them, especially with the party-list system of voting, there will be more political parties, whether national, regional, a coalition of political parties, or sectoral organizations that may register after the approval of this Act.

Senator Tolentino: I think so, Mr. President.

Senator Gonzales: Would not all of them be entitled to a proportionate seat in the three categories allocated for the party-list members?

Senator Tolentino: If they do not receive the votes that would be needed in order to give them a proportionate number of seats, then, of course, they would not have any seat in the category in which they are.

Senator Gonzales: That is why in my interpellation during our last session, I suggested that, probably, it would be better to set a minimum percentage of votes to be received by them in order to qualify for a seat so that we can, more or less, limit the party-list members to those who obtain a substantial portion of the votes cast, Mr. President.

Senator Tolentino: We have taken into account the suggestion, Mr. President, and during our period of amendments, we shall consider that very seriously.

Senator Gonzales: It is the Commission on Elections under this law — Section 12 — that will allocate the seats for the party-list representatives, Mr. President.

Senator Tolentino: Yes. But it follows a certain procedure and a certain criteria as to how the allocation shall be made.

Senator Gonzales: Yes. I think we should really study very

well whether the criteria herein provided will be sufficiently concrete that the Commission would have really a definite and fair standard in the allocation.

What I am merely saying is that, that decision of the Commission allocating the seats can still be reviewed, by way of a repetition for review through certiorari, to be filed with the Supreme Court, Mr. President.

Senator Tolentino: I should think so, Mr. President.

Senator Gonzales: Because there might be controversies generated in the allocation of such party-list members by the Commission on Elections.

Senator Tolentino: Yes, Mr. President.

Senator Gonzales: I am really worried about the qualifications that we have set forth for the party-list candidates, Mr. President, not only on being a registered voter in the residence requirement, but also on the question of age insofar as youth sectoral organizations are concerned because of the qualifications set forth by the Constitution itself for members of the House of Representatives.

Our initial understanding would be, that they apply to all the Members of the House of Representatives, and since the Constitution makes no qualification, I think we are not justified in making any. Although admittedly, the party-list members are to be elected in the manner as may be provided for by law, but then in age, for example, there is again an alteration in the qualification. Here, to be a member of the youth sector, he must be, at least, 18 years of age although when he reaches the age of 21 during his term, he continues to serve. Can we really change the qualification provision of the Constitution?

Senator Tolentino: Mr. President, I would like to thank the distinguished Gentleman from Mandaluyong for this observation because that is a very serious question: Whether we can make a different qualification for a sector in the party-list system and whether everybody in the party-list system or in the regular election by districts should comply with the qualifications provided by the Constitution. That deserves a very serious study so we do not enact a bill that may contravene the Constitution.

Senator Gonzales: Yes, Mr. President. I thank the concern that the distinguished Senator has equally expressed on the issue that I have raised which might still also apply to Section 16 on vacancies. Because when there is a vacancy in the seat of a party-list member, the same can be filled by means of appointment, and the appointee will serve the unexpired portion of the term. This is really something new in this jurisdiction. The Constitu-

tion provides that vacancies in the House of Representatives shall be filled by means of a special election. I wonder whether or not we can change it and adopt a new system that is not provided for by the Constitution.

Senator Tolentino: I believe that in the case of the vacancies of congressmen under the party-list system, we may consider the succession automatic on the basis of the list that has been submitted by the corresponding party. Instead of having an appointment by the President, we may perhaps provide that when a vacancy occurs in a presentation of a particular party, the next name in the list shall automatically succeed. In that case, we could consider him also as having been elected, only that he did not reach the number to be a representative who should go to Congress.

Senator Gonzales: Even the Gentleman seems disturbed by this provision in the light of its apparent conflict with the express provision of the Constitution.

Senator Tolentino: Yes, Mr. President.

Senator Gonzales: I have already pointed out and have clarified, through this interpellation, a number of its provisions and the operations of this bill when it becomes a law.

I thank the Gentleman for the time that he has given me and the opportunity to ask these questions.

Thank you, Mr. President.

The Presiding Officer [Senator Maceda]: The Majority Leader.

Senator Aquino: Mr. President, it was only Senator Gonzales who indicated a desire to interpellate Senator Tolentino this afternoon. I think there is no more interpellator unless somebody raises his hand.

On Monday, we shall take up Senate Bill No. 1913, the Party-List Bill, also Senate Bill No. 740 on House Bill No. 10844, Granting Permanent Status to Aliens, and Senate Bill No. 1311. If there is time, we shall also take up Senate Bill No. 1905, the Anti-Dumping Law.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1913

Meanwhile, I move that we suspend consideration of Senate Bill No. 1913.

The Presiding Officer [Senator Maceda]: Is there any objection? [*Silence*] Hearing none, the motion is approved.

ADJOURNMENT OF THE SESSION

Senator Aquino: With that, I move that we adjourn our session until four o'clock Monday afternoon.

The Presiding Officer [Senator Maceda]: The session is adjourned until four o'clock Monday afternoon, if there is no objection. [*There was none.*]

It was 5:53 p.m.