

REPUBLIC ACT NO. 8436

Senate Bill No. 2314

AUTOMATED ELECTION SYSTEM ACT OF 1998

ROS	October 27, 1997	pp. 494-506
	October 28, 1997	pp. 515-525
	October 29, 1997	pp. 549-560
	November 12, 1997	pp. 676-686
	November 17, 1997	pp. 850-857
	November 18, 1997	pp. 865
	November 19, 1997	pp. 894-897
	November 24, 1997	pp. 986-997
	December 1, 1997	pp. 143-158
	December 3, 1997	pp. 173-177
	December 8, 1997	pp. 298-302
	December 9, 1997	pp. 350-357
	December 11, 1997	pp. 492-517
	December 15, 1997	pp. 523-524 540-543
	December 17, 1997	pp. 714-732

157 total pages

Senator Tatad. Mr. President, may we request the Secretariat to prepare a clean copy, there being so many amendments, so that tomorrow we can approve this bill on Second Reading and Third Reading. This is a certified bill.

SUSPENSION OF CONSIDERATION OF S. NO. 2245

I move to suspend consideration of Senate Bill No. 2245.

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

BILL ON SECOND READING

S. No. 2314--Automated Election System Act of 1998

Senator Tatad. Mr. President, I move that we consider Senate Bill No. 2314 as reported out under Committee Report No. 609.

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

Consideration of Senate Bill No. 2314 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. 2314, entitled

AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL AND LOCAL ELECTIONS AND IN SUBSEQUENT ELECTORAL EXERCISES AND PROVIDING FUNDS THEREFOR

The following is the whole text of the bill:

Senate Bill No. 2314

AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL AND LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

SECTION 1. Declaration of Policy. - It is the policy of the State to ensure free, orderly, honest, peaceful and credible elections, and assure the secrecy and sanctity of the ballot in order that the results of elections, plebiscites, referenda, and other electoral exercises shall be fast, accurate and reflective of the genuine will of the people.

SEC. 2. Definition of Terms. - As used in this Act, the following terms shall mean:

1. *Automated Election System* - a system using appropriate technology for voting and electronic devices to count votes and canvass/consolidate results;

2. *Counting Machine* - a machine that uses an optical scanning/mark-sense reading device or any similar advanced technology to count ballots;

3. *Data Storage Device* - a device used to electronically store counting and canvassing results, such as a memory pack or diskette;

4. *Computer Set* - a set of equipment containing regular components, i.e., monitor, central processing unit or CPU, keyboard and printer;

5. *National Ballot* - refers to the ballot to be used in the automated election system for the purpose of the May 11, 1998 elections. This shall contain the names of the candidates for president, vice-president, senators and parties, organizations or coalitions participating under the party-list system. This ballot shall be counted by the counting machine;

6. *Local Ballot* - refers to the ballot on which the voter will manually write the names of the candidates of his/her choice for members of the House of Representatives, governor, vice governor, members of the provincial board, mayor, vice mayor, and members of the city/municipal council. For the purpose of the May 11, 1998 elections, this ballot will be counted manually;

7. *Board of Election Inspectors* - there shall be a Board of Election Inspectors in every precinct composed of three (3) regular members who shall conduct the voting, counting and recording of votes in the polling place.

For the purpose of the May 11, 1998 elections, there shall be special members composed of a fourth member in each precinct and a COMELEC representative who

is authorized to operate the counting machine. Both shall conduct the counting and recording of votes of the national ballots in the designated counting centers;

8. *Election Returns* - a machine-generated document showing the date of the election, the province, municipality and the precinct in which it is held and the votes in figures for each candidate in a precinct directly produced by the counting machine;

9. *Statement of Votes* - a machine-generated document containing the votes obtained by candidates in each precinct in a city/municipality;

10. *City/Municipality/District/Provincial Certificate of Canvass of Votes* - a machine-generated document containing the total votes in figures obtained by each candidate in a city/municipality/district/province as the case may be; and

11. *Counting Center* - a public place designated by the Commission where counting of votes and canvassing/consolidation of results shall be conducted.

SEC. 3. *Qualifications, Rights and Limitations of the Special Members of the Board of Election Inspectors.* - No person shall be appointed as a special member of the board of election inspectors unless he/she is of good moral character and irreproachable reputation, a registered voter, has never been convicted of any election offense or of any crime punishable by more than six (6) months imprisonment or if he/she has pending against him/her an information for any election offense or if he/she is related within the fourth civil degree of consanguinity or affinity to any member of the board of election inspectors or any special member of the same board of Election Inspector or to any candidate for a national position or to a nominee as a party list representative or his/her spouse. The special members of the board shall enjoy the same rights and be bound by the same limitations and liabilities of a regular member of the board of election inspectors but shall not vote during the proceedings of the board of election inspectors except on matters pertaining to the national ballot.

SEC. 4. *Duties and Functions of the Special Members of the Board of Election Inspectors.* -

1. During the conduct of the voting in the polling place, the fourth member shall:

a. accomplish the minutes of voting for the automated election system in the precinct; and

b. ensure that the national ballots are placed inside the appropriate ballot box;

2. On the close of the polls, the fourth member shall bring the ballot box containing the national ballots to the designated counting center;

3. Before the counting of votes, the fourth member shall verify if the number of national ballots tallies with the data in the minutes of the voting;

4. During the counting of votes, the fourth member and the COMELEC authorized representative shall jointly accomplish the minutes of counting for the automated election system in the precinct;

5. After the counting of votes, the fourth member and the COMELEC authorized representative shall jointly:

a. certify the results of the counting of national ballots from the precinct; and

b. bring the ballot box containing the counted national ballots together with the minutes of voting and counting, and other election documents and paraphernalia to the city or municipal treasurer for safekeeping.

SEC. 5. *Board of Canvassers.* - For purposes of the May 11, 1998 elections, each province, city or municipality shall have two (2) board of canvassers, one for the manual election system under the existing law, and the other, for the automated system. For the automated election system, the chairman of the board shall be appointed by the Commission from among its personnel/deputies and the members from the officials enumerated in Section 21 of Republic Act No. 6646.

SEC. 6. *Authority to Use an Automated Election system.* - To carry out the above-stated policy, the Commission on Elections, herein referred to as the Commission, is hereby authorized to use an automated election system, herein referred to as the System, for the process of voting, counting of votes and canvassing/consolidation of results of the national and local elections: *Provided, however,* That for the May 11, 1998 elections, the System shall be applicable in all areas within the country only for the positions of president, vice president, senators and parties, organizations or coalitions participating under the party-list system.

To achieve the purpose of this Act, the Commission is authorized to procure by purchase, lease or otherwise any supplies, equipment, materials and services needed for the holding of the elections by an expedited process of public bidding of vendors, suppliers or lessors: Provided, That the accredited political parties are duly notified of and allowed to observe but not to participate in the bidding. If, inspite of its diligent efforts to implement this mandate in the exercise of this authority, it becomes evident by February 9, 1998 that the Commission cannot fully implement the automated election system for national positions in the May 11, 1998 elections, the election for both national and local positions shall be done manually except in the Autonomous Region in Muslim Mindanao (ARMM) where the automated election system shall be used for all positions.

SEC. 7. Features of the System. - The System shall utilize appropriate technology for voting, and electronic devices for counting of votes and canvassing of results. For this purpose, the Commission shall acquire automated counting machines, computer equipment, devices and materials and adopt new forms and printing materials.

The system shall contain the following features: (a) use of appropriate ballots, (b) stand-alone machine which can count votes and an automated system which can consolidate the results immediately, (c) with provisions for audit trails, (d) minimum human intervention, and (e) adequate safeguard/security measures.

In addition, the system shall as far as practicable have the following features:

1. It must be user-friendly and need not require computer-literate operators;
2. The machine security must be built-in and multi-layer existent on hardware and software with minimum human intervention using the latest technology like encrypted coding system;
3. The security key control must be embedded inside the machine sealed against human intervention;
4. The Optical Mark Reader (OMR) must have a built-in printer for numbering the counted ballots and also for printing the individual precinct number on the counted ballots;
5. The ballot paper for the OMR counting machine must be of the quality that passed the international standard like ISO-1831, JIS-X-9004 or its equivalent for optical character recognition;
6. The ballot feeder must be automatic;
7. The machine must be able to count from 100 to 150 ballots per minute;
8. The counting machine must be able to detect fake or counterfeit ballots and must have a fake ballot rejector;
9. The counting machine must be able to detect and reject previously counted ballots to prevent duplication;
10. The counting machine must have the capability to recognize the ballot's individual precinct and city or municipality before counting or consolidating the votes;
11. The System must have a printer that has the capacity to print in one stroke or operation seven (7) copies (original plus six (6) copies) of the consolidated reports on carbonless paper;
12. The printer must have at least 128 kilobytes of Random Access Memory (RAM) to facilitate the expeditious processing of the printing of the consolidated reports;
13. The machine must have a built-in floppy disk drive in order to save the processed data on a diskette;
14. The machine must also have a built-in hard disk to store the counted and consolidated data for future printout and verification;
15. The machine must be temperature-resistant and rust-proof;
16. The optical lens of the OMR must have a self-cleaning device;
17. The machine must not be capable of being connected to external computer peripherals for the process of vote consolidation;
18. The machine must have an Uninterrupted Power Supply (UPS);
19. The machine must be accompanied with operating manuals that will guide the personnel of the Commission the proper use and maintenance of the machine;

20. It must be so designed and built that add-ons may immediately be incorporated into the system at minimum expense;

21. It must provide the shortest time needed to complete the counting of votes and canvassing of the results of the election;

22. The machine must be able to generate consolidated reports like the election return, statement of votes and certificate of canvass at different levels; and

23. The accuracy of the count must be guaranteed, the margin of error must be disclosed and backed by warranty under such terms and conditions as may be determined by the Commission.

In the procurement of this system, the Commission shall adopt an equitable system of deductions or demerits for deviations or deficiencies in meeting all the above stated features and standards.

For this purpose, the Commission shall create an Advisory Council to be composed of technical experts from the Department of Science and Technology (DOST), the Information Technology Foundation of the Philippines (ITFP), the University of the Philippines (UP), and two (2) representatives from the private sector recommended by the Philippine Computer Society (PCS). The Council may avail itself of the expertise and services of resource persons of known competence and probity.

The Commission in collaboration with the DOST shall establish an independent Technical Ad Hoc Evaluation Committee, herein known as the Committee, composed of a representative each from the Senate, House of Representatives, DOST, and COMELEC. The Committee shall certify that the System is operating properly and accurately and that the machines have a demonstrable capacity to distinguish between genuine and spurious ballots.

The Committee shall ensure that the testing procedure shall be unbiased and effective in checking the worthiness of the System. Toward this end, the Committee shall design and implement a reliability test procedure or a system stress test.

SEC. 8. Procurement of Equipment and Materials.

- The Commission shall procure the automated counting machines, computer equipment, devices and materials

needed for ballot printing and devices for voting, counting and canvassing from local or foreign sources free from taxes and import duties, subject to accounting and auditing rules and regulations.

SEC. 9. Systems Breakdown in the Counting Center.

- In the event of a systems breakdown of all assigned machines in the counting center, the Commission shall use any available machine or any component thereof from another city/municipality upon the approval of the Commission En Banc or any of its divisions.

The transfer of such machines or any component thereof shall be undertaken in the presence of representatives of political parties and citizens' arm of the Commission who shall be notified by the election officer of such transfer.

There is a systems breakdown in the counting center when the machine fails to read the ballots or fails to store/save results or fails to print the results after it has read the ballots; or when the computer fails to consolidate election results/reports or fails to print election results/reports after consolidation.

SEC. 10. Examination and Testing of Counting Machines. - The Commission shall, on the date and time it shall set and with proper notices, allow the political parties and candidates or their representatives, citizens' arm or their representatives to examine and test the machines to ascertain that the system is operating properly and accurately. Test ballots and test forms shall be provided by the Commission.

After the examination and testing, the machines shall be locked and sealed by the election officer or any authorized representative of the Commission in the presence of the political parties and candidates or their representatives, and accredited citizens' arms. The machines shall be kept locked and sealed and shall be opened again on election day before the counting of votes begins.

Immediately after the examination and testing of the machines, the parties and candidates or their representatives, citizens' arms or their representatives, may submit a written report to the election officer who shall immediately transmit it to the Commission for appropriate action.

SEC. 11. Official Ballot. - The Commission shall prescribe the size and form of the official ballot which

shall contain the titles of the positions to be filled and/or the propositions to be voted upon in an initiative, referendum or plebiscite. Under each position, the names of candidates shall be arranged alphabetically by surname and uniformly printed using the same type size. A fixed space where the chairman of the Board of Election Inspectors shall affix his/her signature to authenticate the official ballot shall be provided.

Both sides of the ballots may be used when necessary.

For this purpose, the deadline for the filing of certificate of candidacy/petition for registration/manifestation to participate in the election shall not be later than one hundred twenty (120) days before the elections: Provided, That, any elective official, whether national or local, running for any office other than the one which he/she is holding in a permanent capacity, except for president and vice-president, shall be deemed resigned only upon the start of the campaign period corresponding to the position for which he/she is running: Provided, further, That, unlawful acts or omissions applicable to a candidate shall take effect upon the start of the aforesaid campaign period. Provided, finally, That, for purposes of the May 11, 1998 elections, the deadline for filing of the certificate of candidacy for the positions of President, Vice President, Senators and candidates under the Party-List System as well as petitions for registration and/or manifestation to participate in the Party-List System shall be on February 9, 1998 while the deadline for the filing of certificate of candidacy for other positions shall be on March 27, 1998.

The official ballots shall be printed by the National Printing Office and/or the Bangko Sentral ng Pilipinas at the price comparable with that of private printers under proper security measures which the Commission shall adopt. The Commission may contract the services of private printers upon certification by the National Printing Office/Bangko Sentral ng Pilipinas that it cannot meet the printing requirements. Accredited political parties and deputized citizens' arms of the Commission may assign watchers in the printing, storage and distribution of official ballots.

To prevent the use of fake ballots, the Commission through the Committee shall ensure that the serial number on the ballot stub shall be printed in magnetic ink that shall be easily detectable by inexpensive hardware and shall be impossible to reproduce on a photocopying machine, and that identification marks, magnetic strips, bar codes and other technical and security markings, are provided on the ballot.

The official ballots shall be printed and distributed to each city/municipality at the rate of one (1) ballot for every registered voter with a provision of additional four (4) ballots per precinct.

SEC. 12. *Substitution of Candidates.* - In case of valid substitutions after the official ballots have been printed, the votes cast for the substituted candidates shall be considered votes for the substitutes.

SEC. 13. *Ballot Box.* - There shall be in each precinct on election day a ballot box with such safety features that the Commission may prescribe and of such size as to accommodate the official ballots without folding them.

For the purpose of the May 11, 1998 elections, there shall be two (2) ballot boxes for each precinct, one (1) for the national ballots and one (1) for the local ballots.

SEC. 14. *Procedure in Voting.* - The voter shall be given a ballot by the chairman of the Board of Election Inspectors. The voter shall then proceed to a voting booth to accomplish his/her ballot.

If a voter spoils his/her ballot, he/she may be issued another ballot subject to Section 11 of this Act. No voter may be allowed to change his/her ballot more than once.

After the voter has voted, he/she shall affix his thumbmark on the corresponding space in the voting record. The chairman shall apply indelible ink on the voter's right forefinger and affix his/her signature in the space provided for such purpose in the ballot. The voter shall then personally drop his/her ballot on the ballot box.

For the purpose of the May 11, 1998 elections, each voter shall be given one (1) national and one (1) local ballot by the Chairperson. The voter shall, after casting his/her vote, personally drop the ballots in their respective ballot boxes.

SEC. 15. *Closing of Polls.* - After the close of voting, the board shall enter in the minutes the number of registered voters who actually voted, the number and serial number of unused and spoiled ballots, the serial number of the self-locking metal seal to be used in sealing the ballot box. The board shall then place the minutes inside the ballot box and thereafter close, lock and seal the same with padlocks, self-locking metal seal or any other safety devices that the Commission may authorize. The chairman of the Board of Election

Inspectors shall publicly announce that the votes shall be counted at a designated counting center where the board shall transport the ballot box containing the ballots and other election documents and paraphernalia.

For the purpose of the May 11, 1998 elections, the chairman of the Board of Election Inspectors shall publicly announce that the votes for president, vice president, senators and parties, organizations or coalitions participating in the party-list system shall be counted at a designated counting center. During the transport of the ballot box containing the national ballots and other documents, the fourth member of the board shall be escorted by representatives from the Armed Forces of the Philippines or from the Philippine National Police, citizens' arm, and if available, representatives of political parties and candidates.

SEC. 16. Designation of Counting Centers. - The Commission shall designate counting center(s) which shall be a public place within the city/municipality or in such other places as may be designated by the Commission when peace and order conditions so require, where the official ballots cast in various precincts of the city/municipal shall be counted. The election officer shall post prominently in his/her office, in the bulletin boards at the city/municipal hall and in three (3) other conspicuous places in the city/municipality, the notice on the designated counting center(s) for at least fifteen (15) days prior to election day.

For the purpose of the May 11, 1998 elections, the Commission shall designate a central counting center(s) which shall be a public place within the city or municipality, as in the case of the National Capital Region and in highly urbanized areas. The Commission may designate other counting center(s) where the national ballots cast from various precincts of different municipalities shall be counted using the automated system. The Commission shall post prominently a notice thereof, for at least fifteen (15) days prior to election day, in the office of the election officer, on the bulletin boards at the municipal hall and in three (3) other conspicuous places in the municipality.

SEC. 17. Counting Procedure. - (a) The counting of votes shall be public and conducted in the designated counting center(s).

(b) The ballots shall be counted by the machine by precinct in the order of their arrival at the counting center. The election officer or his/her representative

shall log the sequence of arrival of the ballot boxes and indicate their condition. Thereafter, the board shall, in the presence of the watchers and representatives of accredited citizens' arm political parties/candidates, open the ballot box, retrieve the ballots and minutes of voting. It shall verify whether the number of ballots tallies with the data in the minutes. If there are excess ballots, the poll clerk, without looking at the ballots, shall publicly draw out at random ballots equal to the excess and without looking at the contents thereof, place them in an envelope which shall be marked "excess ballots". The envelope shall be sealed and signed by the members of the board and placed in the compartment for spoiled ballots.

(c) The election officer or any authorized official or any member of the board shall feed the valid ballots into the machine without interruption until all the ballots for the precincts are counted.

(d) The board shall remain at the counting center until all the official ballots for the precinct are counted and all reports are properly accomplished.

For the purpose of the May 11, 1998 elections, the ballots shall be counted by precinct by the special members of the Board in the manner provided in paragraph (b) hereof.

SEC. 18. Election Returns. - After the ballots of the precincts have been counted, the election officer or any official authorized by the Commission shall, in the presence of watchers and representatives of the accredited citizens' arm, political parties/candidates, if any, store the results in a data storage device and print copies of the election returns of each precinct. The printed election returns shall be signed and thumbmarked by the fourth member and COMELEC authorized representative and attested to by the election officer or authorized representative. The Chairman of the Board shall then publicly read and announce the total number of votes obtained by each candidate based on the election returns. Thereafter, the copies of the election returns shall be sealed and placed in the proper envelopes for distribution as follows:

A. In the election of president, vice president, senators and party-list system:

(1) The first copy shall be delivered to the city or municipal board of canvassers;

(2) The second copy, to the Congress, directed to the President of the Senate;

(3) The third copy, to the Commission;

(4) The fourth copy, to the citizens' arm authorized by the Commission to conduct an unofficial count. In the conduct of the unofficial quick count by any accredited citizens' arm, the Commission shall promulgate rules and regulations to ensure, among others, that said citizens' arm releases in the order of their arrival one hundred percent (100%) results of a precinct indicating the precinct, municipality or city, province and region: Provided, however, That, the count shall continue until all precincts shall have been reported.

(5) The fifth copy, to the dominant majority party as determined by the Commission in accordance with law;

(6) The sixth copy, to the dominant minority party as determined by the Commission in accordance with law; and

(7) The seventh copy shall be deposited inside the compartment of the ballot box for valid ballots.

The citizens' arm shall provide copies of the election returns at the expense of the requesting party.

For the purpose of the May 11, 1998 elections, after the national ballots have been counted, the COMELEC authorized representative shall implement the provisions of paragraph A hereof.

B. In the election of local officials and members of the House of Representatives:

(1) The first copy shall be delivered to the city or municipal board of canvassers;

(2) The second copy, to the Commission;

(3) The third copy, to the provincial board of canvassers;

(4) The fourth copy, to the citizens' arm authorized by the Commission to conduct an unofficial count. In the conduct of the unofficial quick count by any accredited citizens' arm, the Commission shall promulgate rules and regulations to ensure, among others, that said citizens' arm releases in the order of their arrival one hundred percent (100%) results of a precinct indicating the

precinct, municipality or city, province and region. Provided, however, That, the count shall continue until all precincts shall have been reported.

(5) The fifth copy, to the dominant majority party as determined by the Commission in accordance with law;

(6) The sixth copy, to the dominant minority party as determined by the Commission in accordance with law; and

(7) The seventh copy shall be deposited inside the compartment of the ballot box for valid ballots.

The citizens' arm shall provide copies of election returns at the expense of the requesting party.

After the votes from all precincts have been counted, a consolidated report of votes for each candidate shall be printed.

After the printing of the election returns, the ballots shall be returned to the ballot box, which shall be locked, sealed and delivered to the city/municipal treasurer for safekeeping. The treasurer shall immediately provide the Commission and the election officer with a record of the serial numbers of the ballot boxes and the corresponding metal seals.

SEC. 19. Custody and Accountability of Ballots. - The election officer and the treasurer of the city/municipality as deputy of the Commission shall have joint custody and accountability of the official ballots, accountable forms and other election documents as well as ballot boxes containing the official ballots cast. The ballot boxes shall not be opened for three (3) months unless the Commission orders otherwise.

SEC. 20. Substitution of Chairman and Members of the Board of Canvassers. - In case of non-availability, absence, disqualification due to relationship, or incapacity for any cause of the chairman, the Commission shall appoint as substitute, a ranking lawyer of the Commission. With respect to the other members of the board, the Commission shall appoint as substitute the following in the order named: the provincial auditor, the register of deeds, the clerk of court nominated by the executive judge of the regional trial court, or any other available appointive provincial official in the case of the provincial board of canvassers; the officials in the city corresponding to those enumerated, in the case of the

city board of canvassers; and the municipal administrator, the municipal assessor, the clerk of court nominated by the judge of the municipal trial court, in the case of the municipal board of canvassers.

SEC. 21. *Canvassing by Provincial, City, District and Municipal Board of Canvassers.* - The city or municipal board of canvassers shall canvass the votes for the president, vice president, senators, and parties, organizations or coalitions participating under the party-list system by consolidating the results contained in the data storage devices used in the printing of the election returns. Upon completion of the canvass, it shall print the certificate of canvass of votes for president, vice-president, senators and members of the House of Representatives and elective provincial officials and thereafter, proclaim the elected city or municipal officials, as the case may be.

The city board of canvassers of cities comprising one (1) or more legislative districts shall canvass the votes for president, vice president, senators, members of the House of Representatives and elective city officials by consolidating the results contained in the data storage devices used in the printing of the election returns. Upon completion of the canvass, the board shall print the canvass of votes for president, vice president, and senators and thereafter, proclaim the elected members of the House of Representatives and city officials.

In the Metro Manila area, each municipality comprising a legislative district shall have a district board of canvassers which shall canvass the votes for president, vice president, senators and members of the House of Representatives and elective municipal officials by consolidating the results contained in the data storage devices used in the printing of the election returns. Upon completion of the canvass, it shall print the certificate of canvass of votes for president, vice president, and senators and thereafter, proclaim the elected members of the House of Representatives and municipal officials.

Each component municipality in a legislative district in the Metro Manila area shall have a municipal board of canvassers which shall canvass the votes for president, vice president, senators, members of the House of Representatives and elective municipal officials by consolidating the results contained in the data storage devices used in the printing of the election returns. Upon completion of the canvass, it shall prepare the certificate of canvass of votes for president, vice president, senators, members of the House of

Representatives and thereafter, proclaim the elected municipal officials.

The district board of canvassers of each legislative district comprising two (2) municipalities in the Metro Manila area shall canvass the votes for president, vice president, senator and members of the House of Representatives by consolidating the results contained in the data storage devices submitted by the municipal board of canvassers of the component municipalities. Upon completion of the canvass, it shall print a certificate of canvass of votes for president, vice president and senators and thereafter, proclaim the elected members of the House of Representatives in the legislative district.

The district/provincial board of canvassers shall canvass the votes for president, vice president, senators, members of the House of Representatives and elective provincial officials by consolidating the results contained in the data storage devices submitted by the board of canvassers of the municipalities and component cities. Upon completion of the canvass, it shall print the certificate of canvass of votes for president, vice president and senators and thereafter, proclaim the elected members of the House of Representatives and the provincial officials.

The municipal, city, district and provincial certificates of canvass of votes shall each be supported by a statement of votes.

The Commission shall adopt adequate and effective measures to preserve the integrity of the data storage devices at the various levels of the boards of canvassers.

SEC. 22. *Number of Copies of Certificate of Canvass of Votes and Their Distribution.* - (a) The certificate of canvass of votes for president, vice president, senators, members of the House of Representatives, parties, organizations or coalitions participating under the party-list system and elective provincial officials shall be printed by the city or municipal board of canvassers and distributed as follows:

- (1) The first copy shall be delivered to the provincial board of canvassers for the use in the canvass of election results for president, vice president, senators, members of the House of Representatives, parties, organizations or coalitions participating under the party-list system and elective provincial officials;

(2) The second copy shall be sent to the Commission;

(3) The third copy shall be kept by the chairman of the board; and

(4) The fourth copy shall be given to the citizens' arm designated by the Commission to conduct an unofficial count. It shall be the duty of the citizens' arm to furnish independent candidates copies of the certificate of canvass at the expense of the requesting party.

The board of canvassers shall furnish all registered parties copies of the certificate of canvass at the expense of the requesting party.

(b) The certificate of canvass of votes for president, vice president and senators, parties organizations or coalitions participating under the party-list system shall be printed by the city boards of canvassers of cities comprising one or more legislative districts, by provincial boards of canvassers and by district board of canvassers in the Metro Manila area, and other highly urbanized areas and distributed as follows:

(1) The first copy shall be sent to Congress, directed to the president of the Senate for use in the canvass of election results for president and vice president;

(2) The second copy shall be sent to the Commission for use in the canvass of the election results for senators;

(3) The third copy shall be kept by the chairman of the board; and

(4) The fourth copy shall be given to the citizens' arm designated by the Commission to conduct an unofficial count. It shall be the duty of the citizens' arm to furnish independent candidates copies of the certificate of canvass at the expense of the requesting party.

The board of canvassers shall furnish all registered parties copies of the certificate of canvass at the expense of the requesting party.

(c) The certificates of canvass printed by the provincial, district, city or municipal boards of canvassers shall be signed and thumbmarked by the chairman and members of the board and the principal watchers, if

available. Thereafter, it shall be sealed and placed inside an envelope which shall likewise be properly sealed.

In all instances, where the Board of Canvassers has the duty to furnish registered political parties with copies of the certificate of canvass, the pertinent election returns shall be attached thereto, where appropriate.

SEC. 23. National Board of Canvassers for Senators.

- The chairman and members of the Commission of Elections sitting En Banc, shall compose the national board of canvassers for senators. It shall canvass the results for senators by consolidating the results contained in the data storage devices submitted by the district, provincial and city boards of canvassers of those cities which comprise one or more legislative districts. Thereafter, the national board shall proclaim the winning candidates for senators.

SEC. 24. Congress as the National Board of Canvassers for President and Vice President.

- The Senate and the House of Representatives in joint public session shall compose the national board of canvassers for president and vice president. The returns of every election for president and vice president duly certified by the board of canvassers of each province or city, shall be transmitted to the Congress, directed to the president of the Senate. Upon receipt of the certificates of canvass, the president of the Senate shall, not later than thirty (30) days after the day of the election, open all the certificates in the presence of the Senate and the House of Representatives in joint public session, and the Congress upon determination of the authenticity and the due execution thereof in the manner provided by law, canvass all the results for president and vice president by consolidating the results contained in the data storage devices submitted by the district, provincial and city boards of canvassers and thereafter, proclaim the winning candidates for president and vice president.

SEC. 25. Voters' Education.

- The Commission together with and in support of accredited citizens' arm shall carry out a continuing and systematic campaign through newspapers of general circulation, radio and other media forms, as well as through seminars, symposia, fora and other non-traditional means to educate the public and fully inform the electorate about the automated election system and inculcate values on honest, peaceful and orderly elections.

SEC. 26. Supervision and Control. - The System shall be under the exclusive supervision and control of

the Commission. For this purpose, there is hereby created an information technology department in the Commission to carry out the full administration and implementation of the System.

The Commission shall take immediate steps as may be necessary for the acquisition, installation, administration, storage, and maintenance of equipment and devices, and to promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 27. *Oversight Committee.* - An Oversight Committee is hereby created composed of three (3) representatives each from the Senate and the House of Representatives and three (3) from the Commission on Elections to monitor and evaluate the implementation of this Act. A report to the Senate and the House of Representatives shall be submitted within ninety (90) days from the date of election.

The oversight committee may hire competent consultants for project monitoring and information technology concerns related to the implementation and improvement of the modern election system. The oversight committee shall be provided with the necessary funds to carry out its duties.

SEC. 28. *Designation of Other Duties for Certain Pre-election Acts.* - If it shall no longer be reasonably possible to observe the periods and dates prescribed by law for certain pre-election acts, the Commission shall fix other periods and dates in order to ensure accomplishment of the activities so voters shall not be deprived of their suffrage.

SEC. 29. *Election Offenses.* - In addition to those enumerated in Sections 261 and 262 of Batas Pambansa Blg. 881, As amended, the following acts shall be penalized as election offenses, whether or not said acts affect the electoral process or results:

(a) Utilizing without authorization, tampering with, destroying or stealing:

(1) Official ballots, election returns, and certificates of canvass of votes used in the System; and

(2) Electronic devices or their components, peripherals or supplies used in the System, such as counting machine, memory pack/diskette, memory pack receiver, and computer set;

(b) Interfering with, impeding, absconding for

purpose of gain, preventing the installation or use of computer counting devices and the processing, storage, generation and transmission of election results, data or information; and

(c) Gaining or causing access to using, altering, destroying or disclosing any computer data, program, system software, network, or any computer-related devices, facilities, hardware or equipment, whether classified or declassified.

SEC. 30. *Applicability.* - The provisions of Batas Pambansa Blg. 881, As Amended, otherwise known as the "Omnibus Election Code of the Philippines", and other election laws not inconsistent with this Act shall apply.

SEC. 31. *Rules and Regulations.* - The Commission shall promulgate rules and regulations for the implementation and enforcement of this Act including such measures that will address possible difficulties and confusions brought about by the two-ballot system. The Commission may consult its accredited citizens' arm for this purpose.

SEC. 32. *Appropriations.* - The amount necessary to carry out of the provisions of this Act shall be charged against the current year's appropriations of the Commission. Thereafter, such sums as may be necessary for the continuous implementation of this Act shall be included in the annual General Appropriations Act.

In case of deficiency in the funding requirements herein provided, such amount as may be necessary shall be augmented from the current contingent fund in the General Appropriations Act.

SEC. 33. *Separability Clause.* - If, for any reason, any section or provision of this Act or any part thereof, or the application of such section, provision or portion is declared invalid or unconstitutional, the remainder thereof shall not be affected by such declaration.

SEC. 34. *Repealing Clause.* - All laws, presidential decrees, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 35. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Approved,

Senator Tatad. Mr. President, for the sponsorship, I ask that the distinguished lady Senator from Iloilo, the Chair of the Committee on Constitutional Amendments, Revision of Codes and Laws, be recognized.

The President. The Senator from Iloilo is recognized.

SPONSORSHIP SPEECH OF SENATOR SANTIAGO

Senator Santiago. Mr. President, the Committee on Constitutional Amendments, Revision of Codes and Laws, jointly with the Committee on Finance, hereby submit Committee Report No. 609, recommending approval of Senate Bill No. 2314, entitled "An Act Authorizing the Commission on Elections to Use An Automated Election System in the May 11, 1998 National and Local Elections and in Subsequent Electoral Exercises and Providing Funds Therefor."

The Senate version is based on the version already passed by the House of Representatives, but with the addition of certain additional safeguards against computer fraud. We are hopeful that Congress would pass the reconciled version before the Comelec deadline, which is the first week of November this year.

Antecedents of the Bill

Republic Act No. 8046 authorized the Comelec to pilot test a computerized election system in the ARMM elections held last 9 September 1996. The law also created an Oversight Committee to monitor and evaluate the pilot test. The Committee consisted of three (3) representatives each from the Senate, House, and Comelec.

The chair and cochair of the Committee were Rep. Emigdio Tanjuatco Jr. and myself. The secretary of the Committee was Comelec Commissioner Teresita Dy-Liacco Flores.

On election day in the ARMM, the Senate was represented by a Technical Working Group. They were tasked with monitoring the computerized election system, which was defined as a system using a counting machine with optical scanning capabilities. The machine counts the votes, thus replacing the board of election inspectors, which used to count the votes manually.

The Comelec bought 42 counting machines known as AIS-150 from American Information System. This machine is an optical mark reader with the ability to read votes indicated on the ballot, to record the votes, and to total the votes read. It uses a new ballot form on which the voter no longer writes the names of his chosen candidates. Instead, the voter merely shades the blank space in the form of an oval, printed before the name of the chosen candidate.

The AIS-150 is a stand-alone machine that is not hooked to any centralized computer. The Comelec claims that the AIS-150 can detect whether a ballot fed into the machine is blank or filled up, and more importantly, whether the ballot is genuine or spurious. I have serious reservations about this claim, which I shall explain later.

The Oversight Committee was unanimous in finding that the counting machine was vulnerable to the unstable power supply and other environmental conditions. These conditions gave rise to such problems as feed jam and pick failure. The most worrisome problem was that instead of counting 150 ballots per minute as expected, the machine counted only 40 ballots or less per minute.

The election results were known 24 to 48 hours after the close of voting.

Report of the Oversight Committee

The law required the Oversight Committee to submit a report by December 1996. I am proud to tell my colleagues that the Senate panel submitted its report on time, on 6 December 1996. The other panels were late in submitting their reports. The Comelec submitted its report on 30 May 1997, or five months late; while the House submitted its report only last 11 August 1997 or eight months late. This delay by the Comelec and the House was the major reason why the Committee was able to submit this report only this month.

In evaluating the pilot test of the computerized 1996 ARMM election, the Oversight Committee was divided into a majority and a minority group. The majority consists of the Comelec and the House panels, which both recommend the computerized system for the 1998 elections. The minority group is the Senate panel, which recommends deliberate prudence in implementing the computerized system, and emphasizes two major recommendations.

The Senate panel's first recommendation was to explore alternative vote checking systems. Our second recommendation was to redesign the vote reporting forms. Because the Senate panel's report was markedly different from the majority report, it bears some discussion.

Report of the Senate Panel

In brief, the Senate panel entertains major reservations about claims made for the machine on speed, accuracy and integrity. We have some serious reservations about these claims, as follows:

1. *On Speed.* The machine does not count 150 ballots per

minute as claimed, but an average of 10 to 25 ballots per minute. Even the majority report admits that the machine counted an average of only 40 ballots per minute.

Thus, the pilot test shows that the use of automated counting machines is not the only way to speed up the process. Accordingly, the Senate panel highly recommends a return to the simple, inexpensive and time-tested procedure of merely providing a copy of the correct election result forms to all parties, immediately after the counting is completed at the precinct level.

2. *On Accuracy.* The counting machine is not error-proof but is susceptible to the presence of defective ballots. Hence, each individual machine has a different degree of accuracy. The "testing error" due to defective ballots is allegedly four (4) for every 50 ballots (4:50). Does this mean that for every 30 million ballots, there will be 2.4 million defective ballots? What is the guarantee that the defective ballots will not be used to influence the final outcome of the elections?

The Senate Technical Working Group made a number of worrisome observations. The Group found that the machine could lend itself to Operation *Dagdag-Bawas*. On the one hand, the machine is susceptible to *dagdag* or vote addition. For example, in the town of Maganoy or Shariff Aguak, Barangay Poblacion, Precinct 1-F, the machine counted 608 ballots when the total registered voters were only 602, and the actual voters were only 598.

On the other hand, the machine is also susceptible to *bawas*, or vote subtraction. For example, in the same polling place, but in Precinct 1-E, the machine recorded a total voter turnout of 628, when the board of election inspectors recorded a turnout of 630.

Were these merely isolated instances, or were they representative examples? This question can only be answered by more in-depth and fully documented research considering that computer fraud is harder to detect than manual fraud.

3. *On Integrity.* The so-called "built-in safeguards" of the machine are not always safe, and do not always guard. Key informants in Maguindanao, Sulu, Tawi-Tawi and Lanao del Sur told the Technical Working Group that the scanner could not distinguish a fake ballot from a genuine ballot. Reportedly, the machine even counted the fake ballots faster than the genuine ones, because the fake ballots were not wrinkled or soiled!

Equally problematic is the inability of the machine to distinguish between an existing precinct and a nonexistent or ghost precinct. This fatal defect misleads the machine into reading the manufactured results of entire precincts which do not exist. Thus, the machine could facilitate *dagdag*, or vote addition on a wholesale basis.

For example, in the same polling place of Maganoy or Shariff Aguak, the Senate Technical Working Group found that no voting took place in Precinct No. 1-G. But the Group found that in Cotabato City where the counting center was located, the ballot box for this missing precinct mysteriously surfaced. And the counting for this ghost precinct was apparently completed in a record time of less than 10 minutes!

The procedures themselves were manifestly prone to Operation *Dagdag-Bawas*. For example, after the polls were closed at the precinct and the ballot boxes were sealed, the Board of Election Inspectors were still allowed to open the ballot boxes at the designated pickup point, which was usually the municipal hall. The reason given for reopening the ballot boxes was allegedly to count the used and unused ballots. If the metal seals of the ballot boxes are allowed to be destroyed by no less than the elections inspectors themselves, then the floodgates have been opened for Operation *Dagdag-Bawas*.

In a bizarre aberration, while the computerized electoral system is touted for its speed, delay is incurred because the Comelec ironically required manual writing of the precinct number, municipality, and province on the computer-generated print-out of results.

Comment of the Department of Science and Technology

In the light of the disturbing but documented observations from the field made by the Senate Technical Working Group, our Senate panel requested the comment of the Secretary of the Department of Science and Technology.

Secretary William Padolina submitted a memorandum validating the anxieties entertained by our Senate panel. He wrote:

It is suggested that until the OCR (optical character recognition) hardware undergoes a thorough review and evaluation, *the results of the next elections to be held in May 1998 should not be counted by this machine.*

For purposes of emphasis, please allow me to repeat this caution from the Secretary of the Department of Science and Technology.

...the results of the next elections to be held in May 1998 should not be counted by this machine. It is recommended, however, that the aforementioned elections be used as a means to pilot test in selected areas whatever computerized system is proposed.

In conclusion, the Senate and the Comelec should be commended on their initiative to employ modern technologies to

improve the efficiency and lower the cost of the electoral process. *However, we should be careful in the implementation of an automated voting process.*

Once more, for emphasis, I shall read the caution by the Secretary of the Department of Science and Technology.

However, we should be careful in the implementation of an automated voting process.

Additional Safeguards in the Bill

Our Committee has accepted the recommendations of the Secretary of Science and Technology. Accordingly, our Committee has added to the House version the following additional safeguards:

1. The machines used in the 1996 ARMM elections will not be used in the 1998 elections. New machines will be used, provided that they pass testing and evaluation by an independent technical *ad hoc* evaluation committee, notably including representatives of the Department of Science and Technology and the Philippine Computer Society;

2. A reliability test procedure (or a system stress test) shall be designed and implemented to weed out thoroughly the weakness of the proposed system. I emphasize that the term "system" refers not only to the computer part of the electoral process, but also to the whole election system, encompassing both the manual procedure, and the usage of computers;

3. In order to detect fake ballots, the serial number on the ballot shall be printed in magnetic ink that would be easily detectable by inexpensive hardware and at the same time would be impossible to reproduce on a photocopying machine.

A Strong Note of Caution

Ten years ago, in 1987, the Comelec started to pilot test the computerized voters list. In 1995, it finally used the list. Yet, experience shows that although it was already computerized, the list was just as padded and defective as the old manual list. Some voters were unable to locate their names and precincts. The resulting disenfranchisement of voters was of course a form of *bawas*, and Operation *Dagdag-Bawas* continued to be rampant in 1995, as officially declared this year by the Senate Electoral Tribunal.

Our Committee submits that an automated election system is not an automatic guarantee of honest elections. Our Committee most seriously submits the following important proposition: Electoral activities preceding the actual voting, counting, and canvass-

ing of votes are *absolutely crucial* in the evaluation of the performance of the counting machine.

In embarking on this seminal Philippine adventure, it is useful to remember that the life of the law has not been logic but experience. Among these voices of experience are those of a person I am proud to call a colleague, for he was also a recipient of the Asian Nobel Prize, known as the Magsaysay Award for government service.

In receiving the award for 1996, the Election Commissioner of India, Tirunellai Narayana Iyer Seshan noted that computerization is applied to three major stages of the electoral process: registration of votes, voting, and counting. In his speech last year at the University of the Philippines, Mr. Seshan said that the new electronic election technology is most appropriate for registration of voters, but is *most dangerous* in the counting of votes.

The Election Commissioner was in effect echoing a warning issued almost 10 years ago by Ian Mclean in his book *Democracy and New Technology*, published in Cambridge. Mr. Mc Lean expressed optimism about the new technology. But at the same time, he warned that if electronic technology is applied to voting, counting, and canvassing, the most important fraud would not be fraud by voters or candidates, but fraud by systems programmers and by election officers.

Be that as it may, our Committee is satisfied that the present bill now embodies sufficient safeguards to justify a pilot test in at least three regions or at least at the national level as feasible and educational. With this defined worldview, our Committee now recommends approval of this bill.

Thank you, Mr. President.

SUSPENSION OF SESSION

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

It was 5:33 p.m.

RESUMPTION OF SESSION

At 5:35 p.m., the session was resumed.

The President. The session is resumed.

SUSPENSION OF CONSIDERATION OF S. NO. 2314

Senator Tatad. Mr. President, to allow our colleagues to prepare for the interpellations, I move that we suspend

Oct. 28, 1997

Tuesday, October 28, 1997

RECORD OF THE SENATE

S. No. 2314 - 2nd Reading

UNDERTAKE THE DELIVERY OF BASIC SERVICES FOR THE PURPOSE OF PROVIDING EMPLOYMENT TO BARANGAY RESIDENTS, AND FOR OTHER PURPOSES,

recommending its approval with amendments.

Sponsor: Senator Sotto III

The President. Referred to the Calendar for Ordinary Business

The Secretary. Committee Report No. 632, submitted by the Committee on Local Government, on Senate Bill No. 2085, introduced by Senator Maceda, entitled

AN ACT CHANGING THE TERM OF OFFICE OF BARANGAY OFFICIALS AND MEMBERS OF THE SANGGUNIANG KABATAAN FROM THREE (3) YEARS TO FIVE (5) YEARS, AMENDING FOR THE PURPOSE SECTION 43 OF REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991, AND FOR OTHER PURPOSES,

recommending its approval with amendments.

Sponsor: Senator Sotto III

The President. Referred to the Calendar for Ordinary Business

The Secretary. Committee Report No. 633, prepared and submitted jointly by the Committees on National Defense and Security; and Finance on Senate Bill No. 2318, with Senators Mercado, Roco, Romulo, and Herrera as authors thereof, entitled

AN ACT PROVIDING FOR THE CONFIRMATION OF WORLD WAR II MILITARY SERVICES,

recommending its approval in substitution of Senate Bill Nos. 270, 1172 and 2299, taking into consideration House Bill No. 6041.

Sponsors: Senators Mercado, Herrera, Roco and Romulo

The President. Referred to the Calendar for Ordinary Business

The Majority Leader is recognized.

BILL ON SECOND READING

S. No. 2314 – Automated Election System Act of 1998
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2314 as reported out under Committee Report No. 609.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 2314 is now in order.

Senator Tatad. We are now in the period of interpellations. I ask that the distinguished sponsor, the Chairman of the Committee on Constitutional Amendments, Revision of Codes and Laws, be recognized; and to interpellate, the distinguished Minority Leader.

The President. The Chairman of the Committee on Constitutional Amendments, Revision of Codes and Laws and the Minority Leader are recognized to start the debate.

Senator Gonzales. Thank you, Mr. President.

Will the distinguished Chairman of the Committee on Constitutional Amendments, Revision of Codes and Laws and sponsor of Senate Bill No. 2314 yield for some questions?

Senator Santiago. Mr. President, I shall be delighted to yield the floor to my friend and mentor who, unfortunately, is not considering a presidential career for himself.

Senator Gonzales. Thank you. We have too many presidential candidates already on hand and one more is certainly an excess to this great number.

This bill seeks to authorize the Commission on Elections to use an automated election system in the May 11, 1998 national and local elections and in subsequent electoral exercises. As defined in Section 2, paragraph 1, it says that automated election system is a system using appropriate technology for voting and electoral exercise to count votes, canvass and consolidate results.

When we consider this bill, do we already assume a particular election technology for the purpose?

Senator Santiago. If the gentleman means by particular election technology a choice, for example, between optical character, hardware, and others, then the answer is yes. We have already made a decision.

Senator Gonzales. I ask that question because I notice that

in all the communications that I have received, both from the Comelec as well as the Namfrel, including documents which were distributed during the breakfast that was hosted by His Eminence Cardinal Sin on October 9, 1997, there is apparently an assumption that the automated voting system contemplated by this bill is actually the same system or the same technology that had been used during the ARMM election which is a technology of and had been supplied by the so-called American Information System or AIS. Is it not, Mr. President?

Senator Santiago. When I answer the question in the affirmative, I meant that the automated system that the bill presupposes refers to the OCR or Optical Character Reader. But in the sense that the automated system might refer to a particular machine by a particular company, that would not be the case.

In fact, the present bill provides that the machines used in the ARMM elections will not be the machines to be used in the 1998 elections.

Senator Gonzales. Mr. President, there are several technologies involving automated electoral process, is it not?

Senator Santiago. That is correct, yes.

Senator Gonzales. Some are partial and some are full or 100-percent automated. Each automated system has its own peculiar procedure and therefore, must be provided for by law itself. In short, the law is fitted or tailored after the technology that is intended by it. Is it not, Mr. President?

Senator Santiago. That is a fair statement, yes.

Senator Gonzales. Is it right for us to do so?

Senator Santiago. That is a policy issue that has never been addressed, but my understanding is that even under a prior administration, the Commission on Elections has already been conducting ongoing and in-depth studies on which technology would be most appropriate and after hearing from and receiving written studies on the matter, has decided on an OCR technology; that is to say, that technology that is used, for example, in supermarkets or in banks or is being used by the Civil Service Commission. The OCR system is basically a system that depends upon bar codes.

Senator Gonzales. Mr. President, even the distinguished lady Senator's speech is concentrated on the computerized system of election that was pilot-tested in the ARMM elections.

Senator Santiago. That is correct.

Senator Gonzales. I have the distinguished Senator's sponsorship speech consisting of nine pages. As I see it, except for the prefatory paragraph and the last two paragraphs of the same, it was actually a *turno en contra* on this bill and not a sponsorship because of many deficiencies—

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. —of the computerized system of election that was used in the ARMM elections, and subject of the report of the Oversight Committee for the Senate.

Senator Santiago. In a broad sense, that is correct.

Senator Gonzales. I do not think it is only the broad sense but in all particulars, Mr. President. I think it is an indictment of that automated system of voting.

Senator Santiago. Maybe "indictment" would be too harsh a word. I merely wanted to find out why is it that in the discharge of our obligation as members of the Oversight Committee for the ARMM elections, the Senate panel led by myself, took a minority position. We, in effect, deferred from the majority position taken by the Comelec and the House of Representatives.

On the one hand, the majority group, consisting of the House and the Comelec, unqualifiedly endorsed a nationwide automated election for 1998.

On the other hand, the minority position, represented by the Senate panel led by myself, took the position that we should exercise an extremely high degree of prudence in accepting all the claims made in behalf of a computerized system. For it is, according to my understanding, naive and misguided to think that just because we will automate the system, we might be able to completely eradicate or even substantially reduce election fraud.

That is why the sponsorship speech devoted itself to pointing out the possible loopholes in a computerized system.

Senator Gonzales. In fact, Mr. President, I was very impressed on that portion of the lady Senator's sponsorship speech, appearing on page 9, the second to the last paragraph which I read into the *Record* as follows:

The Election Commissioner (referring to Mr. Sesan) was in effect echoing a warning issued almost ten years ago by Ian McLean in his book "*Democracy and New Technology*, published in Cambridge.

Mr. McLean expressed optimism about the new

technology but at the same time, he warned that if electronic technology is applied into voting, counting and canvassing, the most important fraud would not be fraud by voters or candidates, but fraud by systems programmers and by election officials.

Senator Santiago. I stand by that quotation. I was very impressed by it, and I do not mind revealing to the gentleman that in the course of preparing my sponsorship speech, I was torn between the obvious implications of the report of the Senate technical working group which actually went to the field during the ARMM elections, and observed with their own two eyes the deficiencies of the computerized system, and the arguments that had been raised in favor of the computerized system by the general public who only have a layman's view of the matter.

What in effect decided the issue for me was an article I found in the Internet, for we tried to make our research as comprehensive as possible. I was able to locate an article by a professor—if I can just have a second to give the gentleman his qualifications and then I will read a statement from that article.

The person I am referring to is a lawyer and a faculty member of the School of Computer Science at Carnegie Mellon University. His name is Michael Ian Shamus; he holds a doctorate; he has an article in the Internet, entitled *Electronic Voting - Evaluating the Threat*.

He starts by saying,

There is a naive belief that mechanical systems, meaning, gears and levers and paper ballots are more trustworthy than electronic systems. It is thought that mechanical devices can be inspected visually for evidence of tampering. Paper ballots are taken as original documents embodying the true will of the electorate.

Although such reliance may seem reasonable in a society, mesmerized by the sanctity of written documents, the facts are very different.

Then he says—and this is what helped me to make up our mind, Mr. President.

Paper media such as punched cards and marked sensed ballots are unreliable because their origin cannot be established after they have been deposited in the ballot box. That is, we cannot tell whether they were filled out by a legitimate voter or were placed by an intruder.

And the other says:

I hold that electronic systems are far safer than any prior method of voting because they implement redundant security checks and audit trails and are much tougher to tamper with because of the size and nature of their tabulating components.

I do not claim that electronic voting is free of troubles but instead urge that its advantages far outweigh its risks.

Senator Gonzales. Unfortunately, we have no basis to make a comparison between the system of electronic voting that has been referred to in the Internet with the one that was used in the ARMM elections. So, here, comparisons will be odious and meaningless.

Senator Santiago. Well, he is just making these broad statements. I think I can clarify the debate if I will now be allowed to say that with reference to the original question on election technology or the specific computerized systems, worldwide, there are four general methods of election technology.

The first is the manual technology which some consider primitive. I do not agree with that view. But in any event, the first category consists of a manual system. That is what we use in the Philippines today.

The second system consists of direct voting; the third consists of the so-called "punch card"; and the fourth consists of the so-called "OCR or optical character recognition." That is to say the system that is used in the supermarkets based on bar codes. These statements by my authority refer to all of these automated systems in general.

But I agree with the gentleman that there are many, many drawbacks to a computerized system.

Senator Gonzales. No, I am not attacking it as a whole, but this is legislation and this is more or less a permanent statute.

The question I would now want to propound is this: Is it assumed now that we are committed to a particular automated system of election?

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. I see. Are we, in effect, legislating for one company?

Senator Santiago. No, no, not for one company in the sense

that we have a choice between punch cards and OCR, and we have made a choice in favor of OCR.

Senator Gonzales. That is it. Precisely. So, we are making the legislation to tailor fit a particular technology. Because if it is a different kind of technology, it will not fall four square under the provisions of this bill.

Senator Santiago. Well, in that sense, I will not disagree too vehemently from the statement.

Senator Gonzales. Is it right to legislate for a particular company?

Senator Santiago. No, not for a particular company but for a particular technology.

Senator Gonzales. Yes, but then we know that a particular technology is the product of a particular company.

Senator Santiago. Not necessarily because in this case...

Senator Gonzales. For example, the computerized system of elections used in ARMM. That is a technology of the AIS and that is the one that supplied this equipment, is that not correct?

Senator Santiago. That is correct, but that is exactly why I made sure to include a statement in the bill that the machines used in the ARMM shall no longer be the machines to be used in 1998.

Senator Gonzales. The sponsor is speaking of the machines.

Senator Santiago. That is correct.

Senator Gonzales. The sponsor is not speaking of the technology.

Senator Santiago. No. The gentleman is correct.

Senator Gonzales. And the same technology is the one contemplated because this bill is no different from the bill that authorized the pilot-testing of the ARMM election. Pareho ang provisions niyan, eh.

Senator Santiago. In effect, that is correct. What I am saying is...

Senator Gonzales. So, by the provisions of this bill, then we are, in effect, pointing out which particular technology and which particular company will supply them.

Senator Santiago. Well, I will agree only with the first part of the statement but not the second part.

I would like to clarify that at the outset, any country that wishes to automate will have a choice between two systems or two technologies. The first is called the punch card system or technology, and the second is called the OCR system or technology. And our present bill, just like the ARMM elections bill, is based on the OCR technology.

But I differ with the second half of the question in the sense that there are myriad companies operating on the basis of an OCR system. Therefore we are not tied to a particular company although it is true to say that we are tied to a particular technology.

For example, under the ARMM elections law, the Comelec chose the company to supply the machines among several consisting of AIS, which eventually won, NCSI, Seconic and BRC. And under the present bill, the Comelec will follow the same procedure. It will open for public bidding the sale of the computers or the counting machines, and several companies will definitely be participating in the bidding.

Senator Gonzales. Mr. President, yesterday I read a column of Mr. Luis R. Mauricio appearing in the newspaper *Today*. It is dated Monday, October 27, 1997. The title is "New Approach to Computerized Polls."

Permit me to read pertinent portions of the same:

The proposal, from the Sierra Madre Foundation, involves a total computerization program through the use of a Via Satellite Automatic Tabulation (VSAT) system covering all of the 200,000 precincts in 1,608 municipalities and cities in the country.

The program will cost P495 million, a bargain when compared with the P557.1-million cost of the partial computerization plan now pending in Congress and covering only 40,000 precincts in the three selected areas.

The P495-million cost for the foundation's program covers the cost of computers, scanners, one mainframe computer, a service provider, and a totalizer.

How does this proposed system work? It calls for just a single ballot, where the voter can write his or her choice for president down to the municipal or city councilors. (The plan pending in Congress would need two kinds of ballots—one containing the names of

president, vice president and 12 senators for computerized tabulation and the other containing the names of the district congressman and provincial and municipal/city officials for manual tabulation.)

The tabulation under this new plan is accomplished, as it is being done now, in the same voting precinct by the same Comelec-deputized teachers. And the authenticated tabulation sheet is forwarded to the municipal or city center, just like the tabulation sheets from the other 150 precincts that comprise the municipality or city.

But the similarity ends there. At this stage, the tabulation sheets are coded, scanned and transmitted via satellite to a central data bank through VSAT. Then the data are downloaded to a main computer, where they are processed by a simple software program and then reflected in a televised totalizer.

This "automatic canvassing" does away with the tedious three-level canvassing, namely the one on the municipal or city level, the provincial level, and the national level.

All told, before the cock crows at the break of dawn the day after the election, all winners are known. The system proposed by the Sierra Madre Foundation can come up with total election returns in 14 hours at the latest and possibly 12 hours on the average.

The proposed system now pending in Congress cannot even come up with any time commitment. At best, it promises partial results anytime between 48 hours to 30 days.

The full computerization of the whole election process is a radical departure from the present system, where the tabulation sheets from the precincts and the canvass sheets from the municipalities or cities are transferred to the provincial capitol and, along with the provincial canvass to the final (national) canvass center.

x x x

So, what I am saying is that there are other computerized election technologies that are available and therefore open to us. If we enact a law, we have to fit that law into that kind of technology so adopted. Would that not be correct, Mr. President?

Senator Santiago. The distinguished gentleman is correct, Mr. President.

Senator Gonzales. Because this bill will not be applicable in the event that we acquire this kind of a complete computerization.

Senator Santiago. That is a correct statement, Mr. President.

Senator Gonzales. So where is the sense in passing this bill?

Senator Santiago. I would now like to explain that. In the first place, long before, at the very start, when Comelec embarked on the adventure of computerized elections, it called from the general public for proposals for computerization or for automation. Sierra Madre Foundation did not respond to the call. That is the only reason it was not considered by the Comelec.

In the second place, we are now under an extreme time constraint because we wish to automate or computerize the elections for 1998.

In the third place, what we seek to implement in the first instance under this bill is not a nationwide computerization or a general program of computerization for the entire country at all levels, both national and local. Because of time constraints, the Comelec proposal is now simply to pilot test the system and then for an oversight committee to submit a report.

If the system does not work as well as promised, then we would be free to transfer to other technologies. For that purpose, I would be happy to accept an amendment or a proposal that will allow flexibility in the choice of election technologies after the 1998 elections.

Senator Gonzales. Is the sponsor then saying that after we have made a pilot test in the ARMM elections, we are making another pilot test for purposes of the 1998 elections which is a national election involving no less than the president, the vice president, and the 12 senators?

Senator Santiago. That is exactly what I am saying. We have had a pilot test in the ARMM elections of September 1996, but it was too close to the 1998 elections for the Comelec, the Senate and the House to make any authoritative analysis and evaluation of that process.

If the ARMM elections had been held as originally scheduled in March, maybe by this time we would have had an authoritative or maybe even a definitive evaluation. But because it was postponed to September, it took some time for all these three components of the oversight committee to evaluate

the findings of their groups that actually observed the operation in the field.

That is the reason we need another pilot test. And in any event, the Comelec has explained that it has no resources, both in terms of manpower, financing and time, to do other than just a pilot test for 1998 elections.

SUSPENSION OF SESSION

The President. The session is suspended for a few minutes, if there is no objection. *[There was none.]*

It was 3:38 p.m.

RESUMPTION OF SESSION

At 3:41 p.m., the session was resumed.

The President. The session is resumed.

The gentleman may continue.

Senator Gonzales. Yes, Mr. President.

Senator Santiago. But before that, Mr. President, if I may be allowed by Senator Gonzales.

Do I have the gentleman's permission to speak, please?

Senator Gonzales. Yes, please.

Senator Santiago. Thank you, Mr. President.

I agree completely that as much as possible, we should not tie the hands of future generations of lawmakers by passing this bill in terms that might indicate that we have made a once and for all decision with respect to the election technology involved.

I see that, and I am perfectly willing to take the initiative in the form of a committee amendment. Eventually, the form of the solution might be to include a provision in the present bill that it shall operate without prejudice to the applicable provisions of the Election Code, particularly to Section 52 of the existing Election Code.

Section 52, paragraph (I), of the Election Code provides that:

The Commission shall have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections for the purpose of ensuring

free, orderly and honest elections and shall:

- (I) Prescribe the use or adoption of the latest technological and electronic devices taking into account the situation prevailing in the area and the funds available for the purpose: *Provided*, That the Commission shall notify the authorized representatives of accredited political parties and candidates in areas affected by the use or adoption of technological and electronic devices not less than thirty (30) days prior to the effectivity of the use of such devices.

I believe that if the present bill could be amended so as to include a provision that it will be implemented without prejudice to Section 52, this paragraph (I) that I have just read, would give the Comelec legal leeway so that it will not be a prisoner or a captive of just one election technology.

I agree perfectly with the gentleman that we should at this time, in effect, announce that we do not intend to be tied to one company or even to one technology; that the Comelec shall be able to assume a more flexible role in the matter if it feels that the flexibility is warranted.

Senator Gonzales. I would like to thank the lady Senator for that answer, Mr. President.

I am not an expert on computers. In fact, I am literally a "babe in the woods" on this technical matter. But the lady Senator would agree with me that if the representations made by Mr. Luis R. Mauricio in the pertinent portion of his column I have read into the record... certainly, a total computerization program through the use of a via-satellite automatic tabulation or VSAT system covering all the 200,000 precincts in 1,608 municipalities and cities at a cost of only P495 million would be better and far superior to a partial computerization plan as now contemplated under this bill.

Senator Santiago. That certainly sounds very exciting, and I am intrigued by the prospect of technology which could prove superior at less cost.

In other words, if we go by the account of the economists, that system would in fact be more cost-effective than the system provided for under this bill.

So, I will certainly take maximum efforts to ensure that by means of a specific provision in the bill, the Comelec and the Congress shall be given sufficient freedom in the future to depart from any system that might be used in the 1998 elections if it is warranted.

Senator Gonzales. The lady senator has stated, Mr. President, that she has caused to be inserted in Senate Bill No. 2314 a provision to the effect that the machines used in the ARMM election will not be used in the 1998 or subsequent elections.

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. In which case, what are we going to do with them?

Senator Santiago. Yes, they would be an expensive superfluity.

Senator Gonzales. That is it. That is why we have to be careful the moment we make up our decisions. It is true that every deficiency in the law can be attended to by amendments in the future. Meantime, we have already invested some of the people's money, in particular machines, only to be discarded after one pilot testing.

Senator Santiago. Apparently, the scientists say that we do not need to completely discard the existing units or the existing units in the future because the scientific testimony is that it is possible to upgrade the software and the hardware. At least that was the assurance that was given, for example, by the American Information System to the Comelec before the Comelec bought those 42 machines that were used in the ARMM elections.

Senator Gonzales. Yes. In fact, the trouble with those scientific evidence introduced comes from the same party that furnished the machines. To me, it comes from a suspected source.

Senator Santiago. It is self-serving.

Senator Gonzales. It will be self-serving at most.

For example, in the letter I have received from Mr. Concepcion, he enumerates the defects and how AIS proposed to correct them.

At the very outset, therefore, we bought machines that are deficient.

Senator Santiago. That might be the logical conclusion of a lawyer. But I imagine that the best reaction is to say that precisely that was the purpose of the law in providing for a pilot test—so that we could gain from experience independently of the claims of the companies or the manufacturers.

Senator Gonzales. Mr. President, I am afraid, however, that once we move in, we are already committed.

Senator Santiago. May I please be allowed to pursue that matter because it is very interesting to me as well, and I am being educated in the process.

From the present Comelec proposal, automated counting shall be implemented only in highly urbanized cities. There will be 17 of these highly urbanized cities, and it will be implemented only on a national level as distinguished from a local level.

This pilot test will entail a total cost of a little over P200 million, notably including the cost of equipment, meaning, the machines which are tagged at US\$16,500 per machine making a total of US\$4,950,000 for the pilot test in 1998.

So to follow the logic of the gentleman's line of questioning, if these machines proved to be unsatisfactory during the pilot test next year, in effect then, the country would have lost about P200 million.

Senator Gonzales. I would like to thank the lady Senator for that additional information.

Mr. President, let us now consider this bill. The first probably would be the ballots to be used in the 1998 election. There will actually be two kinds of ballots that would be prepared—one for the national offices except congressmen—so president, vice president and the eight senators, rather 12 senators... Sorry, I cannot seem to get away from the 1935 Constitution.

The second ballot would be for congressmen and local officials. This would include provincial, city and municipal officials.

The first kind of ballot will be the ones that will be subject to computerized count and canvass. The second ballot will be counted and canvassed in the ordinary way. Is that my understanding?

Senator Santiago. That is correct. On the local level, we will still use the manual system so we would still use the ballots that we are accustomed to. It is only on the national level that we shall use the new ballot style.

Senator Gonzales. The ballot that will be used for purposes of computerized polls will be different from the ballot that will be used for congressmen and local officials.

Senator Santiago. That is correct.

Senator Gonzales. In fact, it is specified that we do not write anything on the ballot with respect to the first category.

We only blacken the particular space opposite the preprinted names appearing therein.

Senator Santiago. That is correct.

Senator Gonzales. And it is a ballot that cannot be folded? In fact, there are instructions to that effect—that the same shall not be folded?

Senator Santiago. That is correct.

Senator Gonzales. When we speak of this ballot, are we intending to manufacture and produce a separate ballot box for them because certainly these cannot be placed in the same ballot box?

Senator Santiago. That is correct.

Senator Gonzales. So there will be two sets of ballot boxes now?

Senator Santiago. That is correct.

Senator Gonzales. And how many precincts are there in this country, 200,000?

Senator Santiago. If the distinguished gentleman is only talking of the pilot test areas for 1998, that would be 30,000 precincts.

Senator Gonzales. But we know that it is not really a pilot test, Mr. President. Under the provision of the bill, it states: "For sheer lack of time, Comelec is permitted to choose specific areas or regions in the country for purposes of the computerized polls."

Is it not? There is nothing that says that it is for pilot testing only.

Senator Santiago. That was my understanding although I will agree with the distinguished gentleman that in its present terminology, the bill could be interpreted in that way. If there is any limitation on the scope of the computerized election system, it is simply because the Comelec is now constipated for lack of time.

Senator Gonzales. So therefore, when we think of these ballots, ballot boxes and other election paraphernalia, we must talk of the total figures that will be needed in a nationwide election?

Senator Santiago. I agree with that point and I must admit that in this computation given to me by the Comelec, the

expenses for additional ballot boxes are not inputted.

Senator Enrile. Mr. President.

The President. With the permission of the gentle lady and the gentleman, what is the pleasure of the gentleman from Cagayan?

Senator Enrile. As a point of clarification and information, I would like to raise this question with respect to the point raised by the distinguished gentleman from Mandaluyong.

If this computerization will not cover the entire nation and that it will only refer to certain segments of the nation, what would be the basis to distinguish the rest of the nation from the sectors that will be covered?

The next question is: Would this not raise a question of unequal protection under the Constitution? Because we are actually discriminating between two sets of voters—those whose votes will be computerized and those who will not be computerized.

Senator Santiago. The constitutional issue I believe can be obviated under the view that this is a pilot test in the light of the fact that the 1996 ARMM elections were too close to the 1998 election to have been a sufficient pilot test of the computerized system.

Senator Enrile. While that is a possibility, the fact remains that it has never been raised.

If I remember correctly, in the case of the Probation Law of the country which was rendered unconstitutional in the case of, I think, *People vs. Vera*, there were certain areas where the Probation Law was first applied as a pilot project, and yet, the Supreme Court rendered the law invalid on the ground of unequal protection.

Senator Santiago. That is correct. In *People vs. Vera*, the Supreme Court reminded all that the equal protection clause mandates equal treatment for all classes of individuals as long as they are similarly situated.

In the United States, they have interpreted the equal protection clause in modern times to mean that the State will be justified in making an exception and giving an equal treatment to similarly situated individuals or groups as long as there is a compelling state interest.

I imagine that the Comelec would, first of all, raise the justification of compelling state interest in this case; and second-

ly, the Comelec has stated that the justification for choosing the highly urbanized cities where the second pilot test will be conducted is that they apparently have the biggest voting populations.

Senator Enrile. I am just raising this point now in anticipation of the issue that will come up so that a study could be made to respond to this.

Thank you.

The President. In connection with the point raised by the gentleman from Cagayan, may the Chair add, for purposes of study, that the more fundamental question is that no less than the proponents have admitted in press releases, in a letter to the President signed by Mr. Concepcion, that the computerization of elections is specifically being proposed to eliminate the *dagdag-bawas* or the cheating process.

The implication is that in areas where it is computerized, there would be no *dagdag-bawas*. But in areas where it is not computerized, the *dagdag-bawas* would be possible. Ergo, since we have such a thing as bailiwicks in Philippine politics, then there is a question as to whether the areas that are being computerized are the areas where the administration or some candidate is not in a position really to cheat. That is really the more fundamental question.

Senator Santiago. Touché is my reaction to that, Mr. President.

But in any event, the committee and the Senate panel has consistently taken the view that computerized elections might be mythological in the sense that it cannot possibly solve the problems posed by operation *dagdag-bawas* simply by installing the system and therefore, we must emphasize that when we say we are going to reform the system, we seek not only change, but change for the better. The sponsorship speech specifically alluded to the fact that although the ARMM elections in 1996 were already computerized, nonetheless, there was official operation *dagdag-bawas* result discovered there, as the Senate Electoral Tribunal officially stated this year.

I have pointed out in my sponsorship speech that even under a computerized electoral system, *dagdag* can still be done simply by disenfranchising the voters. This has nothing to do with the automation or the computerization, but with the precinct maps and the preparation of the computerized voters' list.

In addition to *bawas*, *dagdag* can still be done under computerization.

For example, during the ARMM elections, the Senate technical working group found that there was at least one documented case of "ghost precinct." Apparently, no voting was conducted in a certain precinct. But in Cotabato City, when the ballot boxes were taken and opened for canvassing purposes, the ballot box from that precinct suddenly surfaced.

In addition, the counting machine apparently could not be relied upon to distinguish between a genuine and a spurious ballot. In fact, the Senate technical working group reported that, in some instances, it is possible that the counting machines counted the fake ballots faster than the genuine ballots for the simple reason that these machines are ultrasensitive. It will not count a ballot if it is spoiled or so much wrinkled.

Normally, semiliterate voters tend to spoil or wrinkle their ballots and the machines will automatically reject these ballots, therefore, disenfranchising the voter who did not know how to handle the ballot properly. That would be a case of *bawas*. But at the same time also, because the machine might not be able to distinguish between a fake and a genuine ballot, it opens the floodgates for wholesale election *dagdag*.

So it would be wrong to say that computerization or automation is a guarantee that there will be no operation *dagdag-bawas* in the area where the computerization system is implemented.

Senator Gonzales. Anent the observation and question posed by the Chair, I can only repeat what Mr. Ian McLean had said. He said that if electronic technology is applied to voting, counting and canvassing, the most important fraud would not be fraud by voters or candidates, but fraud by systems programmers and by election officials. This is, indeed, frightening. It will be *dagdag-bawas* several times over.

May I pursue my interpellation, Mr. President.

The President. Please continue.

Senator Santiago. Mr. President, to answer the point at hand, please allow me to read this statement from the Comelec.

It says the Comelec believes that under the automated system of counting, trending can be eliminated. The 17 highly-urbanized cities where the computerization is intended to be pilot-tested next year, from the Comelec's experience in private elections, submit the certificate of canvass last.

So, the expectation of the Comelec is that, while other provinces are still doing the manual counting or the canvassing of votes, the result of elections in the 17 highly-urbanized

cities would only be coming in in a few hours ahead of time. In one or two days, the results from the provinces and the 17 highly-urbanized cities would be coming in at about the same time.

Senator Gonzales. I want to test that statement of the Comelec, Mr. President.

If we limit the so-called "pilot testing" which, to me, is nothing but an implementation of this bill in specified areas and not a pilot test—in the event that this bill is passed into law—is it not correct that even in those areas, we are going to use two kinds of ballots?

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. One for the national officials and one for the local officials.

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. Who will count and prepare the election returns for the second kind of ballot? Is it not the Board of Election Inspectors right in the precinct?

Senator Santiago. That is correct, because we would still be using the same system.

Senator Gonzales. Therefore, while the same is not over, the ballot boxes containing the ballots for national officials cannot as yet be brought to the counting center.

Senator Santiago. Yes. I see the problem, but the solution is available.

Senator Gonzales. So, what time are we really talking about?

Senator Santiago. We could simply constitute another set for the Board of Canvassers.

Senator Gonzales. Oh, Mr. President. But the point is, under this bill, after the poll shall have closed, then the Board of Election Inspectors shall... Of course, they will have to fix their things there, gather all election paraphernalia and put the list of voters used in that precinct inside the ballot box, lock and seal the same and bring it to the counting center.

At what point, under the system now, will they be brought to the counting center? Is it not after the counting of the votes in the second set of ballots? So, actually, we save nothing in point of time?

Senator Fernan. Mr. President.

The President. With the permission of the gentlemen on the floor, Senator Fernan is recognized.

Senator Fernan. Mr. President, allow me to intervene, just to help clarify matters.

To my knowledge, Mr. President, responding to the question posed by the distinguished gentleman from Mandaluyong, the Board of Election Inspectors for this modernization system will consist of four inspectors. After the two ballot boxes are filled and the voting is over, one Board member will bring the ballot box containing the ballots for president, vice president and senators to the counting center, while the ballot box containing the ballots for local offices, including congressmen, will remain with the three members in that particular polling place.

The three out of the four will stay behind to canvass the votes of the local candidates, while the fourth member of the Board of Election Inspectors, accompanied by representatives of Comelec, Namfrel and other organizations and the political parties, will proceed to the voting center where that person, upon arrival, will be assisted by another person. So that the two of them constituting a special board will feed the ballots contained in that particular box into the counting machine.

And that will be the procedure in all precincts so that there will only be a canvassing of local candidates, including congressmen, in the polling place, while the canvassing for the senators, president and vice president will take place in the counting center. That is my understanding, Mr. President.

Senator Gonzales. Yes, Mr. President. Maybe that is the understanding of the distinguished gentleman from Cebu. But that is not justified under the provisions of this particular bill. There is nothing that speaks of that. In fact, in such cases, the act should be of the Board, and the Board consists of all its members, not some of them.

Senator Fernan. Yes, Mr. President. The proposal is to have a Board of four because in the past, it is only the chairman, the poll clerk and a third member. They want to add a fourth member, because that fourth member will escort the ballot box containing the ballots for the president, vice president and senators to the counting center.

Senator Gonzales. Is that a proposal, Mr. President?

Senator Fernan. Yes, that is a proposal. Precisely, during the period of amendments, that will be introduced.

Senator Gonzales. So, I move that we suspend consideration of this bill and wait for these proposals and incorporate them into this bill which we are now considering.

Senator Fernan. We hope, Mr. President, when we reach the period of amendments, to come up with the appropriate amendments.

Senator Gonzales. We can debate only on the bill as it is filed. As it is filed, apparently there are still something to be added.

Senator Santiago. Mr. President.

The President. The lady senator from Iloilo is recognized.

Senator Santiago. Mr. President, let me clarify this point. Senator Fernan is referring to proposals raised during a technical meeting held between the Comelec and Namfrel only last Saturday, October 25, 1997.

The President. With the permission of the gentlemen on the floor. Normally, the Senate President should not interfere but, because of the shortness of time, and we are really trying to look into all the aspects of the bill—based on experience, including my own and I am generalizing, there would be a problem if the results for president, to begin with, are known or a trend is established.

What will happen is, once it is known or a trend is established that XYZ president of, let us say, the administration party is winning, it would be then easy to influence the Board of Election Inspectors to make a congressional candidate or a gubernatorial candidate win because, anyway, the president is already ahead or elected and whatever they do, they will protect him.

In all probability, the congressmen or the local officials, with the president who is winning, if the counting is fast enough, will get a distinct advantage in the canvassing and counting of votes.

The ideal situation really, if we are not rushing this, is that the computerization should cover all areas and all positions at the same time. Now, in our effort to rush this, what is happening is we are splitting it in two areas and splitting the positions, and then we get into all kinds of problems as we are trying to discuss now.

SUSPENSION OF SESSION

Anyway, the session is suspended for a few minutes,

if there is no objection. *[There was none.]*

It was 4:11 p.m.

RESUMPTION OF SESSION

At 4:18 p.m., the session was resumed.

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

SUSPENSION OF CONSIDERATION OF S. NO. 2314

Senator Tatad. Mr. President, I understand the sponsor has certain requirements of the Comelec which would need a little time. In view of that, I move that we suspend consideration of Senate Bill No. 2314.

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

MANIFESTATION OF SENATOR SANTIAGO (Clarification from Comelec on the Constitutional Issue)

Senator Santiago. Mr. President, may I please just clarify that what impels me, notwithstanding that we are virtually running out of time, to request this interruption is the constitutional issue of whether or not this is a pilot test. If it is a pilot test, then it cannot be implemented nationwide. If it is not a pilot test but is conducted only in certain selected areas, then we will still need to justify why those particular areas were chosen.

I will therefore have to request a written memorandum from the Comelec on this constitutional issue before we can proceed.

The President. It is so noted.

The Majority Leader is recognized.

Senator Santiago. May I also invite our colleagues to present to me any other questions that they need to pose before the Comelec so that I can relay and I can answer the questions by tomorrow's session.

BILL ON SECOND READING S. No. 2245 – Agricultural Modernization Act of 1997 (Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2245 as reported out under Committee Report No. 530.

Oct. 29, 1997

recommending its approval without amendments.

Sponsor: Senator Webb

The President. To the Calendar for Ordinary Business

Senator Webb. Mr. President.

The President. The gentleman from Parañaque is recognized.

MOTION OF SENATOR WEBB
(Senators Osmeña and Revilla as
Coauthors of H. No. 1708)

Senator Webb. Just on this particular report, Committee Report No. 636, regarding the increase of bed capacity for the Baguio General Hospital. May I move, Mr. President, that Senators Osmeña and Revilla be considered as coauthors of this measure.

Thank you.

The President. Does the gentleman mean "cosponsors of the bill"?

Senator Webb. Yes, Mr. President.

The President. This is just a House bill.

Senator Webb. Yes, Mr. President, as cosponsors.

The Secretary. Committee Report No. 637, submitted jointly by the Committees on Health and Demography; and Finance on House Bill No. 6726, introduced by Representative Balut, *et al.*, entitled

AN ACT ESTABLISHING THE NORTHEAST
LUZON MEDICAL CENTER IN QUIRINO,
MUNICIPALITY OF LUNA, PROVINCE OF
APAYAO, AND APPROPRIATING FUNDS
THEREFOR,

recommending its approval with amendments.

Sponsor: Senator Webb

The President. To the Calendar for Ordinary Business

OFFICIAL VISIT OF DELEGATION FROM PLARIDEL,
MISAMIS OCCIDENTAL ACKNOWLEDGED

The President. We would like to welcome to the Senate a

big delegation of 58 municipal, barangay and SK officials from Plaridel, Misamis Occidental led by Mayor Ernesto Clarete, all of them 65.

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

BILL ON SECOND READING
S. No. 2314-Automated Election System Act of 1998
(Continuation)

Senator Tatad. I move that we resume consideration of Senate Bill No. 2314 under Committee Report No. 609. This is the Automated Election System Act of 1998.

We are still in the period of interpellations. I ask that the distinguished sponsor, the Chair of the Committee on Constitutional Amendments and Revision of Codes and Laws be recognized; and to continue his interpellations, the distinguished Minority Leader.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 2314 is now in order.

The Senator from Iloilo and the Minority Leader are recognized.

Senator Gonzales. Thank you, Mr. President.

The President. Thank you.

Senator Santiago. Mr. President, may I please beg the indulgence of the gentleman. I would like to make a prefatory statement before the continuation of the debate on this bill.

Thank you very much.

The President. Please proceed.

STATEMENT OF SENATOR SANTIAGO
(On Certain Elements of S. No. 2314)

Senator Santiago. The statement will very briefly consider certain elements of the bill. The first element is the element of time. Comelec has announced that Congress will have to pass the bill by the second week of November in order for Comelec to be able to implement it on any basis at all, less than a national basis, in the May 1998 elections.

It is clear, since it is our last working day on national bills,

that we will not even be able to finish Second Reading. This is an administration-certified bill and the three-day requirement for Third Reading is waived, but there is no real possibility that we will be able to finish the Second Reading this afternoon.

I believe that the gentleman has only, in fact, started his interpellation. This is for guidance and out of courtesy to the Comelec. There will be no practical hope that we will be able to finish Second Reading much less Third Reading of the bill before the Senate goes into the Halloween recess.

The second point is that apparently, the Comelec is now submitting proposed amendments to its own bill. The basis of the House and the Senate versions, as well as the basis of the versions individually filed by the two authors of the bill, all came from the Comelec. But as I announced in the session yesterday, apparently, the Namfrel invited the Comelec to a meeting only last Saturday, October 25. The Senate was not represented at that meeting and apparently, at that meeting, the Namfrel and the Comelec reached a consensus that this Automated Election bill should be applied on a selective basis, no longer on the selected three regions which are named in the bill, but in 17 highly urbanized cities. This is why the Comelec and those who are inclined to support its proposed amendment will be referring to 17 highly urbanized cities against the text of the bill which mentions three regions.

The third point is the issue of constitutionality.

Since our Committee is the Committee on Constitutional Amendments, Revision of Codes and Laws, I hope I shall be given permission to say something very brief about the constitutional aspect of the bill.

The question has been raised that presumably, a loser in the May 1998 elections might go to the Supreme Court and assail this bill for being unconstitutional on the ground that it might violate the equal-protection clause.

We were reminded of the ruling of the Supreme Court in the case of *People v. Vera*, a very old but still prevailing case rule. This case was decided in 1937 and the ruling there was that a certain law, the Probation Law, was unconstitutional because it did not apply equally to all the provinces and therefore, did not apply equally to all citizens throughout the country.

I would like to state my position on the constitutional issue. I believe that we would be able to defend this bill even in its present form which we hope to improve for the better against constitutional arguments.

In the first place, as most lawyers would do, we would be

able to distinguish this case from the case of *People v. Vera*. *Vera* involved a law which said, "Probation could be implemented in a province but only if the provincial government appropriated the necessary funds for a probation office in that province."

Therefore, the Supreme Court noted that the Probation Law would not apply equally throughout the whole country but there would be a situation in the Philippines where one province could be implementing the Probation Law while the next-door province could not be implementing the Probation Law and therefore, the result would be unequal protection to all convicts applying for probation.

Firstly, in this case, we do not have exactly the same factual situation because the application of automated counting in the first instance is not a fundamental right. The fundamental right involved is the right to vote. There is no fundamental right to automated counting. We would therefore not be depriving any citizen of his right to vote. We would not even be depriving him of any right because automated counting is not a right of the individual.

Secondly, the application of automated counting in certain selected areas would not depend on the selective exercise of the appropriation power of the government. It would depend on other factors which I will explain in a minute.

Thus, the first line of defense then in favor of the constitutionality of the bill is that the present bill can be validly distinguished from the case of *People v. Vera*.

On the next level, even assuming that the ruling in *Vera* case applies, nonetheless, our submission would be that this bill would still be able to meet the *Vera* test.

In the *Vera* case, the Supreme Court ruled that: In order for a classification to be upheld under the equal protection clause, there should be a reasonable distinction between the ends and the means of the law.

The Court said that reasonable relationship between the ends and means would be present if: 1) the classification is based on substantial distinctions; 2) the classification is germane to the purposes of the law; 3) the classification applies equally to all members of the class; and 4) the classification is not limited to existing conditions only.

The Comelec has made the submission that all these four elements of the equal protection test as applied in our jurisdiction are present with respect to its proposal to limit the automated election system to the 17 highly urbanized cities which I shall hereafter refer to as the HUCs.

The first requirement is the requirement of substantial distinction. The submission of the Comelec and therefore of our committee is as follows:

Each of the 17 HUCs comprises one or more legislative districts, the voters of which do not vote for provincial officials. The voters of the other component cities and municipalities, on the other hand, vote for provincial officials and their own legislative district representatives together with the other territorial jurisdiction of a province.

Secondly, the certificates of canvass of the 17 HUCs for president, vice president, senator and party-list are transmitted directly to Congress and the Comelec as the case may be, unlike the other HUC where component cities and municipalities whose consolidation of election returns have to pass a second level of canvassing by the provincial board of canvassers.

That is the first point, the point of substantial distinction.

On the second point, the point that the classification must be germane, the purpose of the law is to modernize the electoral system nationwide. However, partial implementation will be feasible only in selected areas, such as the 17 HUCs, because of the obvious time and financial constraints.

The third point is that the classification must apply equally to all members of the same class. The argument is that there is only one voting procedure to be adopted and all positions from local to national are covered by the modernized electoral system in the 17 HUCs.

The fourth point is duration. The requirement is that the classification should not be limited to existing conditions only.

The argument was made yesterday that the proposed law might be declared unconstitutional because it applies only in 1998 even if the classification will continue to exist after 1998. However, there is a valid classification only because of the existing time and financial constraints which will no longer exist in the subsequent elections.

The determination by the legislature as to whether or not the law will apply only in 1998 or in subsequent elections is a political question according to the Supreme Court. I am referring to another old case, the case of *People v. Cayat* where the Supreme Court ruled, "whether conditions have changed as to warrant a partial or complete abrogation of the law is a matter which rests exclusively within the prerogative of the National Assembly to determine."

Still on the point of constitutionality, and going now beyond

Vera, my submission is that this bill actually provides for a second pilot-testing of the computerized election regime. The first pilot test was the ARMM elections in 1996. This second bill, in effect, will be what is called by the technicians as a pilot expansion, an expansion of the pilot project or what they call a roll-out of the system. That is to say we are still conducting the pilot-testing in different stages.

And if there is any problem about the fact that we are having a second pilot test, my recommendation is that we should adopt during the proper period a provision in American law which seems to have solved this problem. I am referring to the *United States Code Annotated*, particularly Title XVII.

We could adopt the terminology of the American law to eliminate any objections on this score. The American law provides:

Electronic voting machines trial basis. Notwithstanding anything to the contrary and provided that the State does not incur any costs greater than ordinarily would be incurred in the conduct of the hereinafter described election, the board of elections and the Secretary of State shall be authorized and empowered but not required to conduct one or more elections using fully electronic voting machines.

Thus we see that in American law, the legislature has not felt itself constraint to just one pilot test. It has, in fact, as this sample legal provision shows, adopted the multipilot-testing method.

My next point is that in order to improve the law so as to obviate or meet the objections that were raised yesterday, the law itself should already provide the requirements for a fully electronic voting machine. I am referring to the objection that the law might be interpreted so as to refer only to one computer company or one particular machine. In that case, my proposed solution is that like American law, our law could be amended so as to provide, for example, as follows: "*Provided, further*, that any fully electronic voting machine so used shall operate in such manner as to meet the following requirements:

- 1) It shall enable the voter to vote in secrecy;
- 2) It shall prevent the voter from voting for the same person more than once for the same office;
- 3) The machine shall correctly register or report and accurately count all votes cast for any and all persons and for or against any and all questions;
- 4) It shall correctly register the number of voters by whom

it was used and every vote cast for each candidate and upon each question. And it shall be capable of being so close during the time the polls are opened that no person can see or know the number of votes registered for any candidate or question;

5) The machine shall be so equipped as to prevent or readily detect any unauthorized use of such machine."

That might be one possible solution to the fear or the suspicion that, as presently styled and worded, the bill might be interpreted only to favor a particular business company or business model.

My last point is certain other issues such as "trending" which was raised yesterday by no less than the Senate President. I understand "trending" to mean that when election results are released selectively, there might be established a pattern tending to favor a candidate or several candidates or the rest of the slate of that favored presidential candidate.

The submission of the Comelec and, therefore, of our Committee is that this will not be the case in the proposed modernized electoral system in the 17 HUCs because all the results are released to the public immediately after counting. The Comelec contends that if the issue of "trending" should be based on the release of partial advanced results, the same situation is also present in the manual system of voting. Political parties are furnished copies of election returns in both the modernized and the manual system of elections.

Since election results are available to all parties concerned, the public may also be notified thereof partially and in advance. The basic difference being that in a manual system, there is discretion as to whether a particular voting result will be released or not.

That is all for this statement this afternoon. I am very thankful to the gentleman for his patience and his indulgence, and I am now ready to answer any further questions.

Senator Gonzales. The records will show, Mr. President, that it was not I but Senator Enrile who raised the constitutional issue against this bill.

We are all fully aware that the equal protection of the law does not prohibit classification. But for classification to be valid, it must be reasonable and proper. The lady Senator has mentioned the requisites for classification to be reasonable and proper, the first of which is that the classification must be based upon substantial distinctions which make real differences. This is my problem.

What is the substantial distinction in terms of suffrage as a

right inherent in citizenship between a voter who is residing in any of these 17 highly urbanized cities and those who are not?

Senator Santiago. May I please clarify at the outset. Shall we now be debating on the basis of the proposed amendment...

Senator Gonzales. The distinguished lady Senator put it in record, and I think I have the right to interpellate the sponsor on that point.

Senator Santiago. Yes. The position is that the distinction is substantial because the 17 HUCs comprise either one or more legislative districts, the voters of which do not vote for provincial officials. That is their distinction from those...

Senator Gonzales. Is there any distinction as far as qualifications and disqualifications to vote are concerned—

Senator Santiago. No.

Senator Gonzales. —which is really the main consideration for purposes of classification?

Senator Santiago. The gentleman is correct in pointing out that there is no distinction based on those points. The distinction instead is based on procedural points, on two of them, in fact.

The first procedural point is the voters of the HUC do not vote for provincial officials, and the second procedural point is that the certificates of canvass for national officials are transmitted directly to Congress or the Comelec, as the case may be. These are the distinctions which the Comelec considers to be substantial even though they are procedural in nature.

Senator Gonzales. I do not consider them substantial in the sense that they have absolutely nothing to do with the qualifications and disqualifications necessary for the exercise of the right of suffrage. I mean we cannot make that as a distinction so that one set of voters will vote under one rule and another set of voters will vote under another rule.

Precisely, Mr. President, I even submitted a way out. I said: "Is this only for pilot testing or is this pilot testing limited only to the 1998 elections? Or is this a permanent feature of the statute itself?"

I failed to get a very categorical answer to that question.

Senator Santiago. This feature limiting the implementation of the law only to the 17 HUCs will be limited only to the May 1998 elections. Thereafter, it will no longer be a feature of the system.

Senator Gonzales. But will the sponsor agree with me that there is no such provision in the bill as filed?

Senator Santiago. That is correct. As I explained, this is because Comelec informed this Chair only last Monday because their own meeting with the Namfrel was held only last Saturday.

Senator Gonzales. Mr. President, we debate on the bill as filed.

Senator Santiago. That is right.

Senator Gonzales. And we debate on the amendments as the amendments are being offered.

Senator Santiago. Yes, I agree that that would be the better procedure.

Senator Gonzales. Because it will really confuse. We lack any common ground. It is impossible to debate when we are debating on something that is not yet written in the bill itself.

Senator Santiago. That is correct. I agree with that viewpoint. That is why in the spirit of transparency, I made the clarification in the prefatory statement.

If we are now to limit our bill for purposes of orderly debate to what is actually contained in the present text of the bill, then still, we would argue that there is no violation of the equal protection clause. If we are arguing on the basis of the selection of three regions for pilot testing, then the distinction there is still substantial because the classification is based on the fact that these three regions are the regions with the biggest voting population.

I am referring to the National Capital Region (NCR); Region III, meaning Central Luzon; and Region IV, meaning Southern Tagalog. According to the Comelec report on the 1995 elections, the three regions have the biggest voting populations as follows: NCR, 5.4 million; Region III, 3.9 million; and Region IV, 5.2 million.

Senator Gonzales. Mr. President, I do not want to be misinterpreted because of my interpellations. I am for computerized elections. In fact, what I am against is a law that provides for computerized elections when we have already a particular technology in mind.

Could the sponsor tell me how much this would cost, the total computerization of elections?

SUSPENSION OF SESSION

Senator Santiago. May I have a one-minute suspension of session, Mr. President.

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

It was 3:40 p.m.

RESUMPTION OF SESSION

At 3:41 p.m., the session was resumed.

The President. The session is resumed.

Senator Santiago. It will be P1.2 billion, Mr. President.

Senator Gonzales. So the report in the newspaper this morning is not correct when it said that the total cost for the nationwide computerization project is P2.2 billion, and P350 million for the purchase of computers presumably to be used in the specified areas. The lady Senator has now a figure of P1.2 billion.

Senator Santiago. That is correct, Mr. President. I remember that during one of the hearings of this committee on this bill, the Comelec Finance Director, who coincidentally is also named Ernesto Herrera, testified that the total nationwide computerization at all levels would entail some P1.1 billion. But apparently, they have already revised upwardly the estimate because of recent economic developments in the currency market. So it should now be P1.2 billion. And to buy the machines for the 30,000 precincts covered by the 17 HUCs would entail an initial expense of some P200 million.

At this juncture, the Senate President relinquished the Chair to Sen. Juan M. Flavio.

Senator Gonzales. We are now working on a concrete basis.

Just to bolster my contention that this bill assumes indeed that a certain and particular kind of computerized poll technology is to be utilized, the Namfrel, through its chairman, Mr. Concepcion, had written the Comelec to do away with the public bidding as required under the law and to go ahead with the AIS system that was used in the ARMM election since after all, they said that it was already pilot tested in the ARMM elections and found to be satisfactory.

Talagang maliwanag na itong batas na ito ay nakaakma

sa isang particular technology and particular company.

Senator Santiago. Kung iyan man ang ambisyon ng mga nakialam sa pagsulat nitong ating panukalang-batas, maaari kong sabihin sa Ginoo na kailanman, habang ako ang isponsor ng panukalang-batas na ito ay hindi mangyayari iyon.

I want to make of record that this bill should never be interpreted as referring only to one supplier of electronic electoral machines or to one specific model of an electronic electoral machine. That is an end devoutly to be avoided.

Senator Gonzales. I have no doubt on that, Mr. President. But on matters of government procurement and even public bidding, without telling what brand of a machine we are acquiring, we can, in the determination of the specifications, point out what must be acquired under a certain project. That is precisely what is happening here.

Senator Santiago. I am willing to concede that point. That could have been possible, and that is entirely possible and feasible under other circumstances, but not with respect to this bill. Our committee will ensure that that will not happen because, first, as I have already indicated during the period of committee amendments, I will certainly propose an amendment based on American law—which I read earlier—which will list in the law itself the requirements for the machine. In that way, it will no longer be company or model-specific, but can be broad enough to encompass any company or machine that meets with the requirements.

In the second place, we have, as we will notice in the text, a specific provision that if we are going to computerize in 1998 or at any subsequent election, we will not be using the models that were used in the ARMM elections.

Senator Gonzales. Where is that, Mr. President? I have been trying to find it, because I thought that the provision that the lady Senator was citing refers to the machines that were used.

Machines are quite different from the technology. Here, the technology is owned by AIS, and the distinguished lady Senator herself said that these can be upgraded. And so all they need to do is to upgrade the same to meet the lady Senator's adverse findings during the ARMM elections as embodied in the report of the Senate Oversight Committee.

Senator Santiago. I would like to refer to...

Senator Gonzales. What page?

Senator Santiago. I am using a copy that has no page—

to Section 5. It is entitled "Procurement of Equipment and Materials."

Senator Gonzales. It is the same. In fact, ayaw lang sabihin mismo. Ito iyon sa page 4, lines 1 to 3. It says here—procurement. Wala akong makita duon sa sinasabi ng magiting na Senador.

Pero ang nandirito, "Provided, That such counting machines, computer equipment, devices and materials shall be later and improved models of those used in the 1996 ARMM elections."

Senator Santiago. Yes, that is what I am referring to.

Senator Gonzales. Itinuturo na natin kung sino, Mr. President.

Senator Santiago. This might simply be a problem of style. But the intent here is to say that the ARMM machines, meaning to say, AIS-150, shall not be used in the computerized elections for 1998 or subsequent periods. So, we could change the terminology.

Senator Gonzales. Are we agreed, Mr. President, that automated election or computerized election technology sometimes actually differ in stages?

Senator Santiago. Technology might differ in stages. That is correct.

Senator Gonzales. And I think we cannot deny the fact that this particular bill, as written, actually conforms to the various operations of the technology that was provided by AIS in the ARMM elections?

Senator Santiago. It provides for what is called OCR technology. "OCR" stands for Optical Character Recognition as opposed to, for example, punch card technology.

Senator Gonzales. Suppose, Mr. President, there is a different and a far better technology; suppose we adopt the so-called—I have only read it as I mentioned in the record only the day before yesterday—Via Satellite Automatic Tabulation (VSAT) system, covering all the 200 precincts in 1,600 municipalities and cities in the country which, according to this column, will cost only P495 million—a bargain when compared with the P557.1 million cost of partial computerization plan now pending in Congress—this law will not fit into this technology.

Senator Santiago. That is correct.

Senator Gonzales. That is it.

Senator Santiago. We are, in effect, limited to OCR technology or the OCR paradigm. If we want to shift to the VSAT paradigm referred to by the distinguished gentleman, then we would no longer be able to use the existing OCR machines. He is correct in that point.

Senator Gonzales. My point is, Mr. President, if we have to have it here, then we can provide, as the lady Senator said, the right to procure and acquire all of these machines and equipment under certain general guidelines in which all competing technologies can vie for the privilege to furnish the government at no less than P1.2 billion.

Senator Santiago. But I wonder if it would be possible to draft a law without actually referring to a specific technology that might not be linguistically possible.

Senator Gonzales. I have so much faith in the distinguished lady Senator that I think the distinguished Senator will be very adequate for the job or, at least, the committee, Mr. President. In the same manner that according to her, under the American law, there are certain general terms and conditions, and the U.S. Congress cannot be accused of having favored any particular brand or that it is brand specific, then that can be done. What will prevent us? *Hindi naman tayo tanga na*, we cannot really do anything about it.

Senator Santiago. I asked the Comelec officials why they chose the OCR technology for our Philippine system, and they showed me a study paper that has been prepared and considered in the Comelec, listing the kinds of technology and the reasons they did not select it.

So, if the gentleman will give me the permission, I would like to read a precis or a summary of this document. It is called "Kinds of Technology Considered".

As a summary.

The Kinds of Technology are:

1. Mechanical Leverage Machine
2. Punch Card
3. Direct Recording Electronic Machine
4. Optical Scanning or Mark Sense which is what is used in our present bill.

Comelec has furnished the committee with the reasons why it discarded the three and adopted the one.

1. The Mechanical Leverage Machine.

Description - A closet type direct voting equipment where all the candidates names and positions are indicated with corresponding push buttons along the names.

To vote - the voter pushes the button opposite the name of the candidate of his choice. After selecting all his choiced candidates for all positions, the voter pulls a lever at the side of the machine, and his vote is automatically recorded and counted.

The Comelec officials explained that they did not choose this Mechanical Leverage Machine for several reasons:

One. It does not make use of ballots. In case of protest, we cannot ask the voters to come back and vote again due to the expense involved. Even if the voters can come back to revote, there is no assurance that they will vote in the same way they voted the first time. And it is apparently inapplicable to the Philippine setting.

Two. It requires a large storage space and is therefore difficult to maintain.

Three. It has to be installed at the polling place. This would be expensive, considering that there are some 200,000 precincts nationwide.

Four, and the most important reason of all, it is becoming obsolete because U.S. users are converting to optical scanning.

2. The Punch Card.

Description - a paper ballot type of system.

In the case, for example, of a printed punch card, all candidates' names and positions are indicated on the ballot with corresponding slots opposite each for punching holes.

To vote - the voter punches the slot creating a hole opposite the name of the candidate of his choice. Votes are counted by using a punch card reader.

The Comelec officials explained that they discarded the punch card system because a printed punch card can hold a maximum number of 151 candidate names only, and it would not be sufficient for synchronized Philippine elections.

On the other hand, if the punch card is nonprinted, it would be difficult to appreciate manually in case of a recount since the ballots just contain numbered holes. And in both cases, printed or nonprinted, there would be a need for training of the voter to operate the punching device in voting. If the holes are

not properly punched, that is, the holes are not removed, the votes corresponding to those holes may not be counted by the punch card reader.

3. The Direct Recording Electronic Machine.

Description - a touch screen direct voting equipment.

All the names of the candidates are indicated on a computer screen.

To vote - the voter touches the name of the candidate of his choice on the screen provided. His vote is automatically recorded and counted. The votes are stored in a separate device attached to the machine.

The Comelec officials explain that they similarly rejected direct recording electronic machine because it has to be installed in the polling place. It uses the latest and therefore, the most expensive technology. It does not make use of ballots. If something happens to the data storage device, there is no ballot to return to in case of protest requiring a recount of votes.

And, finally:

Optical Scan or Mark Sense which is what we are using in our present bill.

Description: A paper ballot system. The candidates' names and positions are preprinted on the ballot. Opposite it is an oval or a box or a broken arrow.

To vote - the voter shades the oval or puts an X mark or completes the arrow respectively opposite the name of the candidate of his choice using the specified marking device. The ballots are read by feeding them through an automated vote counting machine, an optical mark reader.

This technology utilizes visible light technology by reading marks on ballots similar to the human eye. The machines may be installed either in the polling place or in a central counting center.

Finally, the bill does not really refer to the OCR by name. All that the bill provides is for an automated election system.

So, it is our submission that since the terminology is very broad—automated election system—the very latest and any kind of technology can actually be used.

Senator Gonzales. Under the various systems of electronic polls that the distinguished Senator has mentioned and put on record, where will VSAT come in?

Senator Santiago. It would come in under the terminology which is generic of automated election system.

Senator Gonzales. Mr. President, our distinguished colleague mentioned a Comelec report citing the various classes. Where will it fit?

Senator Santiago. It does not because the Comelec considered only four technologies.

Senator Gonzales. Precisely, that is the point, Mr. President. Technology is a very dynamic thing. They might have prepared that study before the ARMM elections. How many years have already passed by since that time? By this time, new technologies had already been adopted. Kung gagastos din lamang tayo, iyong pinakamabuti na.

Senator Santiago. But it is our submission that it would not be possible to do so in the light of the fact that, first, the OCR cannot possibly accommodate all future technologies for the reason that the machine is not even aware of the technology at this time. We will simply have to work with present technology.

The only reason why VSAT was not included among the technologies considered officially by the Comelec is that when the Comelec called for proposals from the various bidders—and I notice that they are the same bidders that are recognized in the United States—nobody offered a VSAT system.

It might be worthwhile to investigate the account of this columnist to see whether he based his column on a raw report or whether he based his column on a report that has been properly monitored and evaluated by computer experts.

My belief is, if it has already been tested in the market, at least one of those bidders should have come forward with this proposal to the Comelec.

Senator Gonzales. Mr. President, I have so much respect in the efforts that our distinguished colleague put on this bill and I am deeply affected by what she said in her own sponsorship speech.

If these were all true, how come they waived aside this following statement in her sponsorship speech when she said: "Secretary William Padolina submitted a memorandum validating the anxieties entertained by your Senate panel."

He wrote, and I quote:

It is suggested that until the OCR (Optical Character Recognition) hardware undergoes a thorough

review and evaluation, the results of the next elections to be held in May 1998 should not be counted by this machine.

Senator Santiago. He was referring to the AIS-150, Mr. President.

Senator Gonzales. Yes, Mr. President. But as we have said, what we will acquire is supposedly an improved version.

Senator Santiago. The bill is not referring to an improved version of the AIS-150.

Senator Gonzales. Yes, it does not so by name. But as I have told the lady Senator, the bill has been so written for that purpose.

Senator Santiago. Anyway, we would not have a problem with the Comelec for it proceeded when it released this bill to the two Chambers of Congress. It was proceeding on the basis of studies that had been conducted in 1994. And I have a statement from the officials of the Comelec that as long as they already have a law that gives them the proper authority, the Comelec will accept new offers for the latest technologies at the time of the offer and through public bidding.

In that case, any company that offers VSAT or any other alternative technology will certainly be able to participate in the bidding. We could also amend the law so as to make this a categorical provision in the bill.

Senator Gonzales. That is again another thing. This is supposed to be covered by an amendment, and it is very difficult really to debate on that basis.

Mr. President, I just strongly suggest that while there is still time, both the Comelec and our Committee make a study of this VSAT. I cannot justify settling for a partial computerization that will cost more than total computerization that will cost less. It will be an act of disservice to our people if I agree to those conditions.

Senator Santiago. We are appreciative of the proposal and I shall certainly immediately take it up with the Comelec contingent who is present in the Session Hall led by no less than the Chairman himself. I hope that this study will be ready for the perusal of the gentleman and the rest of our colleagues when we resume session by November 10, 1997.

Senator Gonzales. Mr. President, may we proceed on the basis of the lady Senator's bill having at least dealt with sufficient detail on that particular issue?

This bill seeks to authorize the Comelec to provide for automated system of voting. How come that there are many extraneous provisions in this bill which may be considered as riders?

Senator Santiago. I thought the gentleman would never notice.

Senator Gonzales. For example, since the lady Senator said "the gentleman would never have noticed", on Section 9, for one thing, this actually affects many of our colleagues, including the lady Senator should she decide to pursue her candidacy for the presidency of our country. It is hidden as a proviso to Section 8, and this is Section 6. It talks of official ballot, and suddenly it jumped to candidates.

It says:

Provided, That a candidate who is aspiring for an elective office other than his incumbent position shall be deemed resigned forty-five (45) days before the election.

Therefore, under this provision, a mayor running for governor, a governor running for congressman, a congressman running for senator, a senator running for vice president and president shall be automatically considered resigned when they file their certificates of candidacy or at least 45 days before the election.

Ano ang kinalaman ng probisyong ito sa automated system of voting?

Senator Santiago. Mr. President, this is in connection with the deadline for the filing of certificates of candidacy in order to give the Comelec sufficient lead time.

Senator Gonzales. I accept that, Mr. President. But the bill went further beyond fixing the deadline for the filing of certificates of candidacy.

This particular provision is the subject of so many bills and ought to be considered separately, together with the whole context of candidacies and candidates under the law. But here, we inserted this provision like "a thief in the night". We set it up as a proviso on a topic or caption that is not really germane to it. It says "Official Ballot."

Senator Santiago. These provisions on certain periods of time were included in the light of the fact that ballots in a computerized system would contain preprinted names of the candidates. And so, if substitution is done, for example, in the

case of death of the candidate, the Comelec will not be able to print new ballots all over again. This would be important in the appreciation of ballots during the counting.

But I agree with the point that the proviso in Section 8, on the automatic resignation of a candidate, is the subject of other independent bills pending before the Senate. In fact, these bills have already been consolidated by our Committee and have already been submitted in the form of a committee report recommending approval of the bill.

If the gentleman and our colleagues deem that this proviso might delay the approval of this bill, then I would have no objection if we delete it on the qualification that we shall debate it when the proper bill is reported out on the floor.

Senator Gonzales. I am glad to hear that. The presence of this provision might even unduly delay the passage of this bill. Because, naturally, it will receive flak or opposition from those who feel that they will be affected by it. The only way for them to uphold their interest is to vote against the bill or to delay its passage at the very least.

Senator Santiago. On my part, I would like to say that I would be delighted to resign from my present office if I had to run for the presidency or the vice presidency. But I understand that there is no epidemic of attitudes among our colleagues adopting the same worldview. Therefore, in order to ensure speedy passage of the bill, I shall be willing to withdraw this proviso in the form of a committee amendment.

Senator Gonzales. The lady Senator will note that my main objection is because I feel this is a rider to the bill.

Senator Santiago. Yes, that is correct. It raises a constitutional issue.

Senator Gonzales. On page 7, Section 9, it says:

In case of valid substitutions after the official ballots have been printed, the votes cast for the substituted candidates shall be considered votes for the substitutes.

Who are we to say that, Mr. President? We cannot say reasonably and justifiably, "We have no right to require by the law." What gives us the right to say that the vote for a disqualified candidate is already a vote for the substituted candidate?

Senator Santiago. In that case, I will be happy to defer to the superior political wisdom and experience of our colleague.

I thought that since this version had already passed the House, and considering my relative ignorance of empirical realities in the political marketplace, that this provision would be in the same class or category as other provisions, such as the provision that if there are more ballots inside the ballot box than the actual number of registered voters in that precinct, then the election officer is given, by law, the authority to simply reach into the ballot, take out at random any number of ballots by whoever voter and consider those ballots as invalidated just so that the rest of the ballots in the box could be counted. That, of course, is a very discriminatory system; but, apparently, it is the only workable system in the marketplace.

I would think that the Comelec and the House thought that this may not be the most just or the most logical system, but it might be the only doable system in the political market.

Senator Gonzales. There should be some other remedy aside from this. I cannot agree that a vote for a candidate whose name appears on the ballot will eventually be considered as a vote for his substitute candidate for that office.

Senator Santiago. Then I shall actively solicit the proposals from our colleagues during the period of amendments, and I will be willing to substitute a better provision if one is proposed to the committee.

Senator Gonzales. Section 12, second paragraph, states that no replacement of ballots shall be allowed.

In all our election laws from the very beginning of time to the present, our legislature had been reasonable and had recognized the possibility that errors may be committed by the voter. That is why he is allowed to change his ballot not more than twice. Here, there is no replacement of ballot even if under the circumstances provided in this bill, he may have spoiled the ballot. And since his ballot can no longer be replaced, he is, in effect, disenfranchised.

Senator Santiago. I will answer the question, but please allow me to complete my answer to the prior question on why Section 10 should provide that the vote for the substituted candidate should be considered a vote for the substitute. The rationale is that the name of the substitute can no longer be printed if the ballots are printed.

In any event, we can explore the possibility of putting a space below each position for the substitute.

Now, to the question at hand: Why is there a provision against replacement of ballots? This is to harmonize with a prior provision in the same bill that each precinct shall be given only

the number of ballots corresponding to the number of registered voters plus three.

Senator Gonzales. If it is three, we can make it plus five.

Senator Santiago. That is arbitrary, yes, Mr. President.

Senator Gonzales. In fact, in many instances, in the bills that we passed, there are actually arbitrary provisions. We did not consult the people; the people did not vote on that. We are substituting our judgment in the exercise of leadership entrusted to us by the people.

Senator Santiago. There are three excess ballots because these are intended for the members of the Board of Election Inspectors.

Senator Gonzales. The choice of three is also arbitrary. That is why I said, what will prevent us from saying five.

Senator Santiago. Yes, Mr. President.

Senator Gonzales. I will now go to the manner of casting of votes. From there, I will go to the counting and then the canvassing. So we are just beginning.

Senator Santiago. The gentleman has effectively spoiled my weekend, but I shall persevere. That, of course, was only humorous aside.

Senator Gonzales. May I lay down certain assumptions which we probably may agree upon? Does the lady Senator agree that this automated system of voting provided under this bill is merely a partial computerization of the polls, not a total one?

Senator Santiago. In what sense, please?

Senator Gonzales. In the sense that it is actually half-manual, half-computerized.

Senator Santiago. What is the manual aspect of the system referred to?

Senator Gonzales. The casting of the ballot itself, Mr. President. I mean, the casting of the ballots will be done before the Board of Election Inspectors by individual voters. Then, the bringing of the ballot boxes to the voting centers or to the counting centers. That is manual.

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. The bringing of the certificates of

canvass from the municipalities or cities to the provinces. That is manual. The bringing of the certificates of canvass from the municipalities to the provinces, that is manual; the bringing of the returns from the provinces and cities to the Comelec or Congress, that is manual.

In short, there is no central unit that would be able, at the push of one button, to obtain that information.

Senator Santiago. In that sense, I agree that it is partly manual.

Senator Gonzales. It is essential to lay down the predicate for a more intelligent discussion of this bill.

We have already begun the assumption that there will be an election. The distinguished Senator did mention earlier in her prefatory statement that there will already be computerization in the 1998 elections although it is not based upon the three specific areas or regions as provided for in the bill but already in 17 places, namely, the highly urbanized cities in the country.

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. That is not yet written in the bill. So, we start on that assumption. The distinguished Senator correctly pointed out that in view of this, there will be two kinds of ballots—ballots for national officials and when I speak of national officials, I am referring to the President, the Vice President, and the twelve Senators—

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. —and another ballot for local elective officers, including the congressmen.

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. The bill—and I have no doubt that there would be amendments thereto—speaks of a special kind of ballot to fit into the scheme of an automated system of counting and canvass.

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. That is why here, unlike the ordinary ballots wherein a voter writes the names of the candidates he voted for, the names of candidates and offices for which they have filed their candidacies are preprinted on the ballot. Higit na makapal ang papel nito kaysa sa ordinaryong balota.

Senator Santiago. That is right, Mr. President. It is almost like cardboard.

Senator Gonzales. And this ballot cannot even be folded.

Senator Santiago. They can actually be folded, but it is preferable not to fold it.

Senator Gonzales. If it is really in the nature of the ballot that it should not be folded because that may destroy the efficacy of the machine, then I have no objection to that. How about the ballot for the local officials, will it be in the ordinary ballots as we used them?

Senator Santiago. Yes, that will be the case although Comelec has hasten to clarify that if there is an order or a provision in the law to that effect, Comelec can use the same ballot for both local and national positions. So, there would only be one ballot.

Senator Gonzales. So, what will appear in our final bill, two ballots or a single ballot?

Senator Santiago. In their meeting with the Namfrel, the Comelec agreed with Namfrel that there should be two ballots, one for national and one for local.

Senator Gonzales. So, we will expect that because I cannot pursue my next question without knowing its basis.

Senator Santiago. I am using a document that was handed to me. It is called "Draft Meeting Report. Comelec and Namfrel Technical Meeting Held on Saturday, 25 October 1997". The first of the listed assumption is that there will be two ballots which the voters will cast, a national ballot and a local ballot. However, in the 17 HUCs, we shall use only one ballot.

Senator Gonzales. So, which is now?

Senator Santiago. For the 17 HUCs, there will only be one ballot.

Senator Gonzales. What is HUC?

Senator Santiago. The highly urbanized cities where we shall pilot-test the system.

Senator Gonzales. Is the lady Senator now saying that there will be full computerization in the 17 highly urbanized cities?

Senator Santiago. In that sense, yes, Mr. President. In the sense that there will only be one ballot and counting will be automated for both national and local positions.

SUSPENSION OF SESSION

Senator Gonzales. All right. May we request a few minutes' suspension of the session.

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being none, the session is suspended.

It was 4:20 p.m.

RESUMPTION OF SESSION

At 4:22 p.m., the session was resumed.

The Presiding Officer [Sen. Flavier]. The session is resumed.

SUSPENSION OF CONSIDERATION OF S. NO. 2314

Senator Tatad. Mr. President, after consulting with the sponsor, I move that we suspend consideration of Senate Bill No. 2314.

The Presiding Officer [Sen. Flavier]. 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. 2297 under Committee Report No. 606, entitled

AN ACT CREATING A PRESIDENTIAL DRUG ENFORCEMENT AGENCY, DEFINING ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being none, the motion is approved.

BILL ON SECOND READING

S. No. 2215 – Philippine National Police Reform Act of 1997
(Continuation)

Senator Tatad. Mr. President, I move that we now resume consideration of Senate Bill No. 2215 under Committee Report No. 465. This is the Philippine National Police Reform Act of 1997. We are now in the period of individual amendments. The sponsor has collated some of the proposed individual amendments and he would like to propose those amendments.

Ginoong Pangulo, maaaring sobra ang kumpromiso ng reporter na ito upang igiit niya na maglabas ng napakalaking letra sa kaniyang *Bulgar* na **NILUTO ANG KASO NG DROGA LABAN SA REVILLA BOYS**.

What motivates this publication to continue weaving fiction in the guise of fact evades me at the moment. They may be planning to diversify from newspapering to paperback fiction novels, whose stories are not worth the paper it is printed on.

In resumé, Mr. President, I can honestly say that on the basis of the documents I have mentioned:

1. That there was no buy-bust operation from the dates between October 23 and November 3, 1997 in the province of Cavite.
2. There are no Antonio Sanchez and Julio Mendoza who were arrested in the so-called buy-bust operation, nor are they members of the CMAC or the staff of Vice-Governor Revilla.

Sanchez and Mendoza really do not exist.

3. The CMAC does not issue identification cards to its members, and, therefore, there is no such person named Roberto Cuevas who could have signed the CMAC ID cards.
4. There is no such person as SPO2 Napoleon Gomez in the entire roster of the PNP, particularly in the province of Cavite.
5. There was no shabu confiscated during the alleged buy-bust operation.
6. The vehicle allegedly used by Sanchez and Mendoza which was identified as a red Toyota Corolla with Plate No. URU 624 is nonexistent because according to the LTO, Plate No. URU 624 is the plate number of a duly registered vehicle which is a Mitsubishi L300 van under File No. 1348-138780, and the color of this L300 van is white not red, registered under the name of Teresita Cebonya of 3457 Aguilar St., Bo. Obrero, Tondo, Manila.

Mr. President, although I have learned not to be onion-skinned anymore, the scenario published in the newspapers about the so-called buy-bust operation is something that hurts my sensibilities. As a matter of fact, my first reaction to this published incident was to make a statement that I would rather

see Bong Revilla or any of my children dead rather than to allow them to be drug lords or drug-users because they cannot be good examples to the youth of this land.

Ang nakasusulasok na pangyayaring ito ay karumaldumal at karimarimarim sa dahilang pawang hubad sa katotohanan at pulos kasinungalingan. Niloko niya ang media, niloko niya ang publiko, niloko niya tayong lahat. Patawarin siya ng Diyos.

Ginoong Pangulo, kung sa kasalukuyan ay mayroon pa akong Imus Production na gumagawa ng pelikula, pilit ko pong hahanapin ang magaling na storywriter na ito upang bigyan ng gawain—ng isang script para sa aking produksyon. Tiyak box-office po sa takilya ang gagawin niya. Kaya lamang, tiyak din na sunog naman ang kaniyang kaluluwa sa impiyerno.

Mr. President, and my esteemed colleagues, *pagpa-sensiyahan po ninyo ako sapagkat ako po ay tao lamang na marunong masaktan.*

Marami pong salamat sa inyong lahat.

The President. The Majority Leader is recognized.

**MOTION OF SENATOR TATAD
(Referral of Senator Revilla's Speech to the
Illegal Drugs Committee)**

Senator Tatad. Mr. President, I move that the speech of our distinguished colleague be referred to the Committee on Illegal Drugs.

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

**BILL ON SECOND READING
S. No. 2314—Automated Election System Act of 1998
(Continuation)**

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2314 as reported out under Committee Report No. 609.

The President. Is there any objection? [*Silence*] There being none, resumption of consideration of Senate Bill No. 2314 is now in order.

Senator Tatad. We are still in the period of interpellations. When we last suspended, the distinguished Minority Leader was interpellating the sponsor. I ask that the distinguished sponsor be now recognized and the Minority Leader to continue his interpellation.

SUSPENSION OF SESSION

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

It was 3:40 p.m.

RESUMPTION OF SESSION

At 3:44 p.m., the session was resumed.

The President. The session is resumed.

The senator from Iloilo, Sen. Miriam Defensor Snatiago and the Minority Leader, Sen. Neptali A. Gonzales are recognized to continue the debate on the measure.

Senator Santiago. Mr. President, I am at the disposal and the mercy of the Minority Leader.

SUSPENSION OF SESSION

Senator Gonzales. May I request that we suspend the session for a few minutes just to gather my papers, Mr. President.

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

It was 3:45 p.m.

RESUMPTION OF SESSION

At 3:47 p.m., the session was resumed.

The President. The session is resumed. The gentleman from Rizal is recognized.

Senator Gonzales. Mr. President, with this Chamber's permission and with the consent of our distinguished and respected sponsor of this measure, may I continue with my interpellations.

Senator Santiago. Mr. President, I consent with trepidation.

Senator Gonzales. Mr. President, the record of this Chamber will show that there has been absolutely no delay in the consideration of this bill.

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. I recall that it was only last week that

this bill was sponsored before this Body. And since then, almost every day, we have our debates and interpellations on it. All of the members of this Body are keenly interested about this bill because they know that it is very important to our national life. Therefore, I, for one, will not be intimidated by any threats that there will be a revolution in this country if we do not pass this bill on time dictated by whomsoever. I think that is the last refuge of scoundrels.

During the last weekend, Mr. President, probably because of the public knowledge that I have been interpellating the sponsor on this bill, I have received a number of communications and letters. I was surprised to learn that there are so many systems, technologies and devices or equipment on computerized counting and canvass of votes.

For example, I have already mentioned the VSAT system which is the technology that was prepared by the Sierra Madre Foundation. Then I was also made aware of the so-called Seconic Electronic Vote-Counting Machine.

Then I received yesterday the proposed amendments to Senate Bill No. 2314, which speak of tamper-proof computerized system of elections that was proven to be successful in Brazil.

The point, Mr. President, is that these are only a few of the many available. There are indeed new, modern, recognized and effective technologies on computerized elections out there available for us to take. It is for us now to determine, through the Comelec, which of them will serve the purpose of this bill which is to ensure a clean, honest, orderly and credible elections.

With that, Mr. President, allow me to proceed. As far as the ballots are concerned, and with the possibility that the computerized system of voting will take place only for the national officials and not for the local officials, it could not be denied that should such an eventuality occur, then there would be two sets of ballots: one, for the national officials which we can call the national ballot; and two, the local ballot intended for local officials, including the members of the House of Representatives. Would that not be the situation?

Senator Santiago. That would be correct.

Senator Gonzales. Because there will be two ballots, and since a special kind of ballot is to be used for national purposes, then there will also be two sets of ballot boxes that will have to be used: one for the national officials—the special ballots to be used in computerized counting and canvass—and the other for the local elections which will be done through the manual and usual process. Would that not be the situation, Mr. President?

Senator Santiago. That is correct.

Senator Gonzales. Has the distinguished lady senator inputted the cost of these new ballot boxes, or all of the additional ballot boxes? Is that a permanent feature of this bill? Or is it intended only for the 1998 elections?

Senator Santiago. The Comelec computation did take into consideration the additional expense for new ballot boxes. The Comelec estimate paper places the cost of each new ballot box at P800 per precinct.

Senator Gonzales. For a total of how much?

Senator Santiago. It would then total P65,452,000, at least for the three regions that are indicated in the bill.

Senator Gonzales. So it would not be a nationwide election?

Senator Santiago. If we are talking nationwide, the cost of the new ballot boxes has already been made part of the proposed 1998 budget for the Comelec.

Senator Gonzales. Which is 7 or 9?

Senator Santiago. The Comelec's total outlay for the entire computerized election process is P1.2 billion. That amount includes the cost of the new ballot boxes at P800 per precinct.

Senator Gonzales. That would also include the cost for the acquisition of the machines?

Senator Santiago. Yes, that is a comprehensive costing.

Senator Gonzales. But that is based on the assumption that the counting machines will be the machines used during the ARMM elections. They based the cost or the estimate on that.

Senator Santiago. They estimated each counting machine at \$16,500 per machine.

Senator Gonzales. Yes, but what is the basis of the estimate? We estimate on the basis of a particular equipment.

Senator Santiago. They used the experience in the ARMM elections to cost the machines at \$16,500 each.

Senator Gonzales. That is it, Mr. President. That means it is on the basis of the AIS No. 150.

Senator Santiago. In that sense, yes, that is correct, Mr. President.

Senator Gonzales. Anyway, these are only estimates, but we have to have some basis.

My question is: Is this system proposed only—because we have several proposals now—in three specific or chosen areas in the country; or in the 17 highly urbanized cities in the Philippines? I do not know which scheme the committee will ultimately follow. I read in the papers that the lady senator said that the elections will be for pilot testing in 1998.

We are not really very clear as to what bill we are really taking up before this Body. *Malaki ang diperensiya nito, hindi po ba?*

Senator Santiago. That is correct. I apologize for the confusion. We have no specific point of reference because everything will depend on when Congress passes the bill. If Congress passes the bill too late, then we may have to limit ourselves to pilot testing. Apparently, the last deadline that was set, at least by Namfrel, is November 14 which is already tomorrow. So the deadline would have elapsed for nationwide implementation. Logically then, we could abandon that as an option. We will only be left with pilot-test option.

Senator Gonzales. Is Namfrel running the Comelec? *[Laughter]*

Senator Santiago. The Namfrel is exerting utmost efforts to provide back-up support to the Comelec in the hope that we could still implement the bill on a nationwide basis for May 1998. That is why it has to do these backward time projections.

Senator Gonzales. No, I am not being naughty about it. But the talks outside the halls of the Senate is that the real chairman now of the Comelec is my very good friend, Joe Concepcion. But that is an aside to make the situation lighter.

Mr. President, here we said that a voter cannot change his ballot at all.

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. As I tried to point out yesterday, that will, in effect, result in his disenfranchisement as a voter.

Senator Santiago. That is correct, if the machine rejects his ballot. The machine would, in effect, disenfranchise the voter.

Senator Gonzales. Suppose he discovers his own mistake

before he places his ballot in the ballot box?

Senator Santiago. Then, in effect, he would still have been disenfranchised because the Comelec has estimated printing of only one ballot per voter with only few excess ballots per precinct.

Senator Gonzales. Should we grant enough latitude for the possibility of innocent mistakes so that the same will not result in the harsh penalty of disenfranchisement?

Senator Santiago. That is certainly an important and valid issue. We have here two options against each other. The first option is to limit strictly the number of ballots actually printed in order to avoid the illegal and fraudulent use of excess ballots which has been so often the source of electoral fraud in past electoral exercises. That is the first option.

The second option is to print more number of excess ballots in the expectation that some, who are not fully familiar with the system, might make a mistake the first time and might demand a second ballot. But then, we would have to run the risk that if these excess ballots fall into wrong hands, they might be used for wholesale electoral fraud.

Senator Gonzales. In the same manner that if in the printing of these ballots there are already excess ballots, then that is a greater harm, whereas the possibility of excess ballots in this case is indeed very small and limited.

At any rate, I think that can be remedied by increasing the extra ballot that the Comelec will require from one to two or three, as the case may be.

Senator Santiago. I agree, Mr. President.

Senator Gonzales. Now, so important is the right of suffrage and consistent with the elimination of the literacy requirement for the exercise of the right of suffrage, our Election Code had made provision for the illiterates and the incapacitated or disabled.

Under this bill that the lady senator is now sponsoring, how will they vote or are they totally disenfranchised?

Senator Santiago. No, they would not be disenfranchised. The expectation is that even if this bill is passed into law, existing provisions of other electoral measures would still apply.

Senator Gonzales. Does the lady senator mean to tell me, Mr. President, that if, let us say, a voter is blind, disabled or incapacitated, or he cannot prepare the ballot himself, he can

actually be accompanied by a relative and cast the vote for him?

Senator Santiago. That is correct, Mr. President. There are existing provisions in the Election Code which legally allows the presence of assistants to accompany a disabled voter.

Senator Gonzales. I know there are, but I am trying to determine whether those will be applicable because they are not contained in the bill being sponsored.

Senator Santiago. I see. So, I appreciate this opportunity to clarify, for the record, that the existing provisions in the Election Code on assistance for disabled voters would still apply notwithstanding that the automated counting system may already have been implemented.

Senator Gonzales. To cast aside any doubt on this particular matter, I suggest strongly that this be adopted probably as an incorporate part of this bill during the period of amendments.

Senator Santiago. That is extremely well taken. I shall certainly see to it that it shall be one of the committee amendments.

Senator Gonzales. I understand that the ballots used for computerized election is a special type. It is on hard paper and printed with a special secret ink, and the law requires that the ballots be printed by the Bureau of Printing. Is it the Philippine Printing Office?

Senator Santiago. National Printing Office.

Senator Gonzales. National Printing Office, BSP.

Senator Santiago. Or the Bangko Sentral ng Pilipinas.

Senator Gonzales. Does it have the capability to print this kind of ballots?

Senator Santiago. I understand from the Comelec that this was certified during their research, that they have this capability.

Senator Gonzales. But does it prevent other parties, including the supplier of the machine itself, from printing on the basis of contract with the Comelec the opportunity to print this ballot to keep them attuned and more a perfect match to the machine that they are going to supply?

Senator Santiago. Under the present wording, only those two agencies which we have already mentioned would be legally capable of printing the ballots.

Senator Gonzales. That is why it is still under our control.

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. I would want to know if it would be a contingency that we ought to provide in this bill or not. Because here, it says that the ballots indeed shall be printed by the National Printing Office and/or the Bangko Sentral ng Pilipinas.

On the other hand, it says that there is however a proviso that the commission may contract the services of private printers upon certification by the National Printing Office, Bangko Sentral ng Pilipinas, that it cannot meet the printing requirements.

Senator Santiago. Yes, that is the fail-safe provision.

Senator Gonzales. It cannot meet the printing requirements. We have been in politics too long and we have received so many complaints. We have also received information that payments are being demanded and received in consideration of a certification by the Bureau of Printing that they cannot undertake the printing of election documents in order that the same can be awarded to private parties.

Senator Santiago. Then I bow to the superior political experience of the gentleman. I would say that that is imminently possible in this country.

Senator Gonzales. Now, Mr. President, so far until the casting of the ballot, the election process will be done in the normal and usual way, is it not?

I think while it is true that computerization starts here with the quality of the ballot—special ballots to be used—actually they come into play only after the ballots are cast.

Senator Santiago. If the gentleman means the procedure for...

Senator Gonzales. The procedure of a voter on how to obtain a ballot, et cetera, until the casting, is it the same? It will still be the same, is it not?

Senator Santiago. Yes, basically, that would be correct.

Senator Gonzales. In fact, the polls are to close at three o'clock in the afternoon?

Senator Santiago. Right. That is correct.

Senator Gonzales. Unless with respect to those voters who

are within a radius of 50 meters from the voting place at the strike of three o'clock. So, *pareho iyan, ano?*

Senator Santiago. Yes.

Senator Gonzales. There is not a minute gained with the use of this computerized election machine.

Senator Santiago. Insofar as the casting of the vote is concerned.

Senator Gonzales. Yes, that is up to that point.

Senator Santiago. Well, maybe it would still be faster because under the automated system, the voter will simply shade the oval spaces instead of writing out in full, in handwritten form, the names of his candidates.

Senator Gonzales. But it is the law itself that says that the poll shall close at three o'clock in the afternoon.

Senator Santiago. That is right.

Senator Gonzales. Regardless of how fast one does it, there is the law that says that the polls are closed at three o'clock.

Senator Santiago. I understand now.

Senator Gonzales. And never before. Now, in this particular case, after the voters have cast their votes and then after the polls shall have been declared closed, then the Board of Election Inspectors would proceed to arrange all the election documents and paraphernalia, close the ballot box, and put in the ballot boxes the ballots and the list of voters that were used in that precinct, then lock and seal the same, is it not?

Senator Santiago. That is correct.

Senator Gonzales. Then physically and manually, the Board of Election Inspectors bring these to wherever the counting center or counting machine has been installed, is it not?

Senator Santiago. That is right. The ballot boxes would have to be physically transported.

Senator Gonzales. Now, that is usually the cause of delay in the voting because some of the barrios or barangays are several kilometers away. Moreover, there is usually the transportation difficulties but this computerized system has nothing to do about it.

Senator Santiago. No, there would be no...

Senator Gonzales. They cannot even remove the causes of delay?

Senator Santiago. No.

Senator Gonzales. So, probably it is this time also in the lady senator's experience, as well as in the vast knowledge that she has obtained about elections, that these are very critical periods when the ballot boxes are brought to the counting machines. Is it not?

Senator Santiago. Yes, in fact, I have...

Senator Gonzales. That furnishes the opportunity for ballot-box switching, ballot-switching and we cannot do anything about that because of this automated system of election.

Senator Santiago. That is right.

Senator Gonzales. Does the lady senator have any estimate of the time involved from the moment the Board of Election Inspectors closes the polls in a precinct to the time when it arrives in the counting center?

Senator Santiago. As the gentleman himself observed, that time period would depend on the proximity of the precinct to the counting center. So there would be no standard time frame.

Senator Gonzales. But we know that that is one of the causes of the delay in the counting and canvassing of votes.

Senator Santiago. Definitely, I agree with that point and it has also been considered by the Comelec. So, apparently, the Comelec is prepared to supply special vehicles for that purpose to be carried out in the presence of two deputies, plus a representative of the citizens' arm.

Senator Gonzales. That is well. It has been undertaken or done, but in spite of all those security precautions, we know that still, some elections in some places have not been to our expectations.

Senator Santiago. That is correct, the system is not fool-proof.

Senator Gonzales. The counting machines here, all the computers, the equipment and devices to be used in this computerized election, are all to be procured by the Comelec?

Senator Santiago. That is correct.

Senator Gonzales. That would be by means of public bidding?

Senator Santiago. Yes, according to the usual accounting rules.

Senator Gonzales. I notice, Mr. President, that in the procurement of these ballot boxes, the bill provides for a sort of a technical committee that will assist and advise the Comelec in the determination of the machine, the technology and the machine to be procured.

Senator Santiago. Yes, in effect, this is a committee that is instituted in order to test the machines before they are actually used in the field.

Senator Gonzales. No, I am not talking of the testing; I am talking of the procurement.

Senator Santiago. There would be a technical committee. In fact, that is what the Comelec did for the 1996 ARMM elections.

Senator Gonzales. Is this technical committee an official body?

Senator Santiago. In the sense that it is an accessory of the Comelec. This is duly appointed by the Comelec.

Senator Gonzales. No. I am asking this question because I seem to recall what were the lady Senator's observations made during the hearing of the case of Senator Sotto. Can we make as members of this committee those who are not government officials?

Senator Santiago. I believe that...

Senator Gonzales. A private person, a private party or a private group?

Senator Santiago. No, that would not be possible. It was not the procedure followed by the Comelec for the ARMM elections.

Senator Gonzales. No, but that is how it is written in this bill.

Senator Santiago. May I please have the page number and the line number.

Senator Gonzales. That is as far as the procurement of the machines is concerned.

Senator Santiago. Is the gentleman referring to page 4, line 4?

Senator Gonzales. I think so. There is a mention of a technical working committee, Mr. President. Here, that is on

page 4. The lady sponsor is correct. Starting from line 4.

It says here: "For this purpose, the Commission may create an advisory council with members coming from any recognized association of information technology practitioners, media, non-government organizations, and such other agencies as may be necessary upon determination by the Commission."

Now what I am saying is that this is an official body discharging governmental functions and can be held and occupied only by officers or employees of the government, although the committee may engage the services of private persons or groups for assistance or technical purposes and take advantage of their expertise.

Senator Santiago. That is correct, Mr. President. I agree with that interpretation. As the provision itself explicitly makes clear, the committee will only be advisory in nature.

Senator Gonzales. Advisory or not, we know how these advisory bodies operate. Sometimes they determine official action.

Senator Santiago. I will join the gentleman in putting on record that this should not be done. As an exegesis of this particular provision, this particular provision is meant to allow the Comelec to avail of the services of a technical committee consisting purely of Comelec employees and officials.

Senator Gonzales. And probably the Department of Science and Technology. There is a whole range of government officials with technical ability from which we can draw from.

Senator Santiago. I see. I am basing my comments on the fact that in 1995, the Comelec was assisted by a technical committee but the composition was purely from within the personnel roster of the Comelec.

Senator Gonzales. Yes, and I think that is the correct procedure, Mr. President, and I hope the Comelec does not change it. Although as I have said, they can always avail of the technical expertise and assistance of private citizens or private groups.

Senator Santiago. Then this would be the opportune time to place on record that the advisory council mentioned in Section 5 of the bill shall be purely advisory in nature and will have no powers of control or administration.

Senator Gonzales. Mr. President, I have a copy of the findings of the Comelec itself. We know the findings of the Senate Oversight Committee regarding the pilot-testing that was

done in the ARMM elections using the AIS 150 machines. And even the Comelec's findings are not something we can be proud of. It speaks of acquisition of another appropriate machine.

So if the lady sponsor would recall, I requested her last time if she could furnish me with the specifications of the machine to be used by the Comelec in the public bidding. I think this is very, very crucial because we should write those specifications into the law as minimum standards or requirements for the machines to be procured.

Senator Santiago. Yes. The Comelec has already drawn up a list of the features that will be required of a modernized counting machine. The following are the features:

1. It can read from 40 to 50 ballots per minute;
2. It utilizes visible light technology that allows the scanner to read marks similar to the human eye;
3. It has a built-in printer which can generate immediate results;
4. It is a stand-alone machine free from external computer manipulation of the results; and
5. It should have passed the U.S. Federal Election Commission Testing conducted under extreme conditions for accuracy.

The final specifications will, of course, depend...

Senator Gonzales. On that particular point, Mr. President, the lady senator, in this age of globalization, is already prohibiting or foreclosing technologies developed abroad, let us say, in Japan or in Germany. Is she saying that a machine to qualify must pass the U.S. Federal Election Commission? Why? Have our colonialism gone that low?

Senator Santiago. I will concede that the limitations of these specifications spring out of our limited acquaintance with the latest state-of-the-art in computerized elections. The Comelec was guided only by the nature of the bidders who responded to their invitation to bid for the 1996 ARMM elections. Thus, the Comelec was able to interface only with four kinds of technology: 1) The mechanical leverage machine; 2) The punchcard; 3) Direct recording electronic machine; and 4) Optical scan or mark sense.

The Comelec in 1996 chose the fourth technology—optical scan or mark sense—and has recommended to the Senate that we should remain with this technology absent any other showing

that superior technology has since been evolved.

Senator Gonzales. Yes, Mr. President. But that is already five years ago. Electronics is such a very dynamic field that in matters of months the old machine can be discarded and new technologies can evolve. Certainly, technology on this matter is not a monopoly of the United States.

Senator Santiago. I agree with that observation, and as I said, our own Senate committee conducted research as far as Internet sources are concerned and was able to find no other major legal provision except that from the United States which I have already previously cited.

I am citing U.S. Code Annotated Title 17, Chapters 17 to 19 entitled "Conduct of Election and Voting Equipment and Supplies." Here in this American version, we have a list of the specifications of the machine which I think could be able to meet the objections of the gentleman so as not to unduly limit or tailor the specifications to a particular kind of technology.

Senator Gonzales. To be more specific, does the AIS system have an optical mark reader? They call it the OMR. Does it have a built-in hard disk for saving data for verification and future use and a built-in printer for numbering the counted ballots?

Senator Santiago. I do not believe it has the technology to number each ballot specifically.

Senator Gonzales. Does the lady senator not think that the optimal mark reader must have a built-in hard disk and built-in printer for numbering ballots?

Senator Santiago. Yes, certainly, that would be the optimum state-of-the-art technology for us.

Senator Gonzales. In fact, if there is a technology that offers it, then it ought to be considered.

Senator Santiago. It should at the very least be considered. I agree.

Senator Gonzales. In the machine used in the ARMM elections, it has a security key control for computer operation but it is exposed externally.

Senator Santiago. That is correct.

Senator Gonzales. And therefore it does not foreclose the possibility of human intervention.

Senator Santiago. That is correct.

Senator Gonzales. Is it not necessary that the security key control be embedded inside the machine itself, sealing it against human intervention?

Senator Santiago. That would again be the optimum mechanical safeguard. However, here we have what appears to be a conflict between our desire to ensure the maximum integrity of the machine as against the restrictions of our own legal system. For example, we want the ballots to be tamperproof. For that reason, the advocacy has been made that the ballots should be numbered. However, if we number the ballots, there might be a violation of the Election Code because they might be considered as "marked." We can surmount this difficulty by a specific provision in the instant bill.

Senator Gonzales. Yes. Certainly, it will not be a mark if we provide for it in the law specifically.

Senator Santiago. That is correct.

Senator Gonzales. Under this machine or system, is the ballot feeder manual or is it automatic? Mr. President, I think it is manual.

Senator Santiago. It is manual in the first instance when the ballots are first placed in the slot provided by the machine, and thereafter, it is automatic in the sense that there is no more need...

Senator Gonzales. Precisely, should we not aim for a ballot feeder that is automatic?

Senator Santiago. But it is already automatic in the sense that once a batch of ballots is placed within the premises of the machine, it counts them automatically.

Senator Gonzales. Since speed is one of the features of this machine, I have read in the sponsor's Senate Oversight Committee Report that the machine that was used in the ARMM elections was capable of reading 25 to 40 ballots per minute. Let us make it 25 to 50 ballots per minute.

Senator Santiago. Yes, we can. That would be fair.

Senator Gonzales. On the other hand, the representation to Comelec was that it would be able to count about 150 ballots per minute.

Senator Santiago. About 150 to 200 ballots. But even in the Comelec report, there is an admission that the actual working performance came up to only about 40 ballots per minute.

Senator Gonzales. Should we not now specify and be assured that the speed of reading must be at least 100 sheets per minute? I mean, just to be reasonable.

Senator Santiago. The specifications drawn up by the Comelec remain at the level of 40 ballots per minute.

Senator Gonzales. If we can have 100, why not prefer 100?

Senator Santiago. Apparently, the Comelec accepted as valid the justification for the reduction in counting speed.

Senator Gonzales. That is one of the complaints against the system. It is capable of rusting and of being affected by dust.

Senator Santiago. That is right.

Senator Gonzales. Therefore, one of the suggestions I am going to make is that it must be rustproof and dustproof.

Senator Santiago. The ARMM machines were extremely sensitive to...

Senator Gonzales. That is not impossible with the system of technology that we have.

Senator Santiago. I have no information at this time whether that would be a valid and feasible requirement to impose on the bidders. I do not know if a bidder would be able to meet the qualification that the machine must be absolutely rustproof and dustproof. But in any event, in the ARMM elections, they certainly proved to be vulnerable.

Senator Gonzales. There are technologies that now offer the same. Does this machine have a fake ballot rejector?

Senator Santiago. Fake ballot rejector. That was the claim of the winning bidder, and that is the position taken by the Comelec that the machines used in the ARMM elections were able to distinguish fake from genuine ballots.

However, it is on record that according to the Senate Technical Working Group sent there, apparently, there were informed witnesses who testified before our technical working group that the machine apparently was unable to make the distinction.

Senator Gonzales. Therefore, we should now specify, require and demand that the machine to be procured must have a fake ballot rejector.

Senator Santiago. Certainly, that is acceptable. In fact,

that is the intent of the provision in the existing version of the bill which insists on the proviso that the machine must have a demonstrable capacity to distinguish between fake and genuine ballots.

Senator Gonzales. Among the usual reasons given for the failure of the machine used in the ARMM elections to deliver the speed requirement is changes in temperature and rust and dust accumulating in the machine. My question is: Should we not require that the machine must be temperature resistant and rust-proof?

Senator Santiago. I agree that that would be a desirable requirement. I would not know, however, whether it would be a feasible requirement.

Senator Gonzales. It is feasible technologically.

Senator Santiago. Then I will take the gentleman's word for it, and I will therefore interpose no objection to imposing this requirement explicitly in the law.

Senator Gonzales. Another observation about the machine used in the ARMM elections is that the optical lens easily gets clogged up by paper dust and the machine had to be stopped for cleaning very often or the feeding will jam. Should we not require that the optical lens must have a self-cleaning device?

Senator Santiago. Yes, I agree with that. That picks up from an observation made in the Senate panel's report itself. That was the reason apparently for the frequent cases of feed jams and pick failures of the machine.

Senator Gonzales. Does it have an uninterrupted power supply so that in the event of brownouts or changes in the voltage of the electric current it will continue to work?

Senator Santiago. Yes, that would be a desirable feature as well.

Senator Gonzales. But we agree that the ARMM machine...

Senator Santiago. The ARMM machines did not have those features. That is correct, Mr. President.

Senator Gonzales. Shall we not require or demand that it must have a UPS or uninterrupted power supply?

Senator Santiago. Yes, Mr. President. I will therefore ensure that the modified version of the bill will contain a committee amendment for the insertion of an additional

provision which will list down all these specifications.

Senator Gonzales. Let us now come down to the point where the machine consolidates the votes. That is essential for the preparation of, first, the election returns; and, second, the certificate of canvass because we can talk concretely only of a machine that had been used.

Under this, how is it done, Mr. President?

Senator Santiago. The machine can perform three functions: (1) it reads; (2) it counts; and (3) it tallies.

Senator Gonzales. Is there human intervention?

Senator Santiago. During these three processes?

Senator Gonzales. At any point, Mr. President.

Senator Santiago. No, there would be no human intervention.

Senator Gonzales. The information I received is that it cannot consolidate votes without human intervention by using an external CPU keyboard and monitor, and it takes a long time to read data as well. Indexing and processing of files prior to printing reports are also long and tedious.

I recall that the delay mentioned here is part of the findings of the Comelec, and this is one of the reasons it recommended that another appropriate machine be used. I think it is best if we are able to consolidate votes without external computer equipment, and processing of data for printing of reports must be fast.

Senator Santiago. I thought that we were referring to manual human intervention.

Senator Gonzales. Yes, Mr. President.

Senator Santiago. In which case my statement would have been accurate.

Senator Gonzales. Reports have also been received that formats of printed reports during the ARMM elections have not conformed with the requirements of Comelec.

Senator Santiago. Could the gentleman kindly specify what were the instances of nonconformity?

Senator Gonzales. The report I have in hand does not specify it, but probably that can be inquired later.

The accounting machine will actually generate, with or without human intervention in certain phases, not only the election returns for the precincts but also the certificates of canvass?

Senator Santiago. That is correct.

Senator Gonzales. If I will be allowed to go back because I missed something.

Senator Santiago. Yes, please.

Senator Gonzales. When the Board of Election Inspectors bring to the counting center the ballot boxes that they have used, the ballots contained therein will not just be counted. They will have to be opened in the counting center and logged in the chronology or the order of their arrival. Then the members of the Board of Election Inspectors will now take out the ballots from the ballot boxes and wait until their turn, is it not?

Senator Santiago. That is correct.

Senator Gonzales. Because there is only one counting machine.

Senator Santiago. That is right.

Senator Gonzales. And there may be 200 or 300 precincts in one place.

Senator Santiago. That is right.

Senator Gonzales. And therefore, there may be as many as 50 ballot boxes at the same time in a precinct.

Senator Santiago. That is correct.

Senator Gonzales. All of them will not be counted simultaneously.

Senator Santiago. No.

Senator Gonzales. On the other hand, what will happen is that they will take their respective turns. Does that not involve delay?

Senator Santiago. Yes. In fact, as tested in ARMM, it did result in delay, and for that reason, the Comelec, wishing to obviate the same problems for the next elections, has already anticipated the problem by providing for reception committees that will log and document the election returns per precinct.

Senator Gonzales. What can the committee do? All that the committee can do is to log the time of ballots' arrivals or to determine the order in which the ballots per precincts will be fed to the counting machine. Is that all it can do?

Senator Santiago. That is correct. There really would be a delay element.

Senator Gonzales. The delay element is there?

Senator Santiago. Yes.

Senator Gonzales. The sponsor has forced me to study her bill, Mr. President.

Senator Santiago. I am very impressed by the quality of his scholarship.

SUSPENSION OF SESSION

Senator Tatad. Mr. President, with the indulgence of our colleagues, may I ask for a one-minute suspension of the session.

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

It was 4:37 p.m.

RESUMPTION OF SESSION

At 5:01 p.m., the session was resumed.

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

SUSPENSION OF CONSIDERATION OF S. NO. 2314

Senator Tatad. Mr. President, I move that we suspend consideration of Senate Bill No. 2314.

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

BILL ON SECOND READING

S. No. 2239—Creating the Film Development Board of the Philippines (Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2239 as reported out under Committee Report No. 528.

The President. Is there any objection? [*Silence*] There being none, resumption of consideration of Senate Bill No. 2239 is now in order.

Senator Tatad. We are still in the period of interpellations. I ask that the distinguished sponsor, Sen. Ramon B. Revilla, and the distinguished gentleman from the Cordilleras, Sen. Juan M. Flavie, be recognized.

The President. The gentleman from Cavite and the gentleman from the Cordilleras are recognized.

Senator Flavie. Ginoong Pangulo, pahihintulutan po ba ng magiting at makisig na senador mula sa Cavite na makapagtanong ang inyong lingkod?

Senator Revilla. Sa abot po ng aking makakaya, gentleman from Regal Films. [*Laughter*] From Baguio and the Cordilleras.

Senator Flavie. Salamat po. Ito pong mga tanong ko ay medyo paulit-ulit. Ngunit dahil sa mga alingasngas na lumalabas na diumano ay maraming tumututol dito, kinakailangang itanong uli natin ito para maging maliwanag. Sapagkat naniniwala ako na kung mauunawaan natin ang mga bagay-bagay tungkol sa bill na ito, malilinawan natin ang lahat.

Ang unang tanong ko po ay ito: Ano po ba talaga ang tunay na layunin ng panukalang-batas na ito?

Senator Revilla. Ginoong Pangulo, ang tunay pong hangarin ng panukalang-batas na ito ay bigyan ng insentibo ang ating mga movie producers na gumagawa ng mga pelikulang de kalidad.

The bill seeks to uplift the aesthetic, cultural and social values for the consumption of our Filipino moviegoers.

Ginoong Pangulo, malaking bagay ang magagawa ng panukalang-batas na ito sa ating naghihingalong industriya ng pelikula sapagkat muling magiging, mabubuhay at sisigla ang industriya ng pelikulang Pilipino.

Natatandaan ko po na noong 1969, 1970, 1971 hanggang 1972, nasa sukdulan ng kasiglaan ang mga *bomba* pictures. Bagamat black and white pa ang ginagawang pelikula at portion-portion lamang ang mga color dahil sa kamahalan ng color negatives. Ngunit nang lumabas ang "Nardong Putik" in full color, masasabi nating good quality picture ito—bagamat may pagka-violent—dahil maganda ang pagkakagawa. Tumiba ito sa takilya. Ang kinita nito ay halos 11 times the capital in just one month only. Mula nang lumabas ang "Nardong Putik," *bomba* pictures faded away and died a natural death. So quality pictures once more ruled the market until our economy went

NOV. 11, 1997

recognition and benefits that a genuine guerrilla deserves.

Senate Bill No. 2318 now seeks to provide that process where the military services of Filipinos and foreign nationals during World War II may be confirmed by the Armed Forces of the Philippines. This is to make them eligible for military veterans status and the corresponding honors and privileges.

The confirmation of military services in the Armed Forces from 8 December 1941 to 3 July 1946 is the proper function of the General Headquarters of the AFP. This will allow the PVAO to concentrate on its functions of administering benefits to established veterans and their dependents.

There may be opportunists and unscrupulous individuals who may take advantage of this bill by making false claims and by initiating fraudulent schemes for wholesale confirmation. The only way that the government can defend itself against such fraudulent claims is through vigilance, strict implementation of regulations, and the serious prosecution of those who will attempt to defile the sacred honor of the veterans' movement. For these purposes, appropriate penal sanctions are provided in the bill.

Mr. President, with the long passage of time, it is to be expected that many of these forgotten veterans have died, many of them are sick, blind, infirm or are on the verge of dying. We implore our colleagues to act with reasonable dispatch on this bill so that the forgotten veterans may yet enjoy the rewards for their services and sacrifice to the country no matter how paltry and long overdue this may be.

In two weeks' time, the Philippines celebrates Bonifacio Day. Perhaps, it is fitting that by that time, we honor the memory. The generation of forgotten heroes will finally have what they have long asked for: the opportunity to confirm their deeds of heroism during the dark days of the Second World War.

We seek approval of this Chamber, Mr. President.

Thank you.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2318

Senator Tatad. Mr. President, I move to suspend consideration of Senate Bill No. 2318.

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

MOTION OF SENATOR TATAD
(Additional Members of the Conference Committee on S. No. 1731/H. No. 9360)

Senator Tatad. Mr. President, I move to amend the composition of the Senate panel to the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1731 and its House counterpart.

I wish to propose the following as additional members: Senators Franklin M. Drilon, Vicente C. Sotto III, and Neptali A. Gonzales.

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

SUSPENSION OF SESSION

Senator Tatad. May I ask for a few minutes' suspension of the session, Mr. President.

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

It was 4:28 p.m.

RESUMPTION OF SESSION

At 4:36 p.m., the session was resumed.

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

BILL ON SECOND READING
S. No. 2314—Automated Election System Act of 1998
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2314 as reported out under Committee Report No. 609.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 2314 is now in order.

Senator Tatad. When we last suspended consideration of the bill, the sponsor was being interpellated by the distinguished Minority Leader. I ask that the sponsor and the Minority Leader be both recognized to continue the interpellations.

The President. The lady senator from Iloilo and the Minority Leader are recognized to continue the interpellation.

Senator Gonzales. Thank you, Mr. President. I hope the kind sponsor of this measure will allow a few more questions and this representation shall be done.

Senator Santiago. Certainly, Mr. President. And I would like to say that I always find it highly educational to be under interpellation or engage in any other form of dialogue with the distinguished former Senate President.

Senator Gonzales. Thank you. We go to the counting of the ballots. The bill provides that the ballots of a precinct shall be fed into the counting machine. The counting machine will now make the count. This counting machine has no way of determining whether or not somebody else has voted for a duly registered voter in that precinct.

Senator Santiago. That is correct. The machine would not have the capability of distinguishing between an authentic voter and a fraudulent voter.

Senator Gonzales. It has also no capability to determine whether or not a group of ballots has been prepared by the same hand or the same person.

Senator Santiago. No, that would not be possible for the machine to find out, considering that the process of voting will consist only of shading blank oval spaces.

Senator Gonzales. If mistakes have been committed by a voter in the preparation of his ballot, for example, in the blackening or shading of a space not intended for any office, or probably two or more candidates have been voted for when the law only requires one, what will happen to that ballot?

Senator Santiago. In effect, the machine would have disenfranchised the voter, because the ballot must be impeccable in order for the machine to count the vote. It must be accomplished strictly according to instructions. And the instructions or the procedures for the automated counting machine require that the voter must be absolutely sure of his responses to the oval spaces before he actually shades them. If he makes some mistakes, he is not given a second chance. The machine will reject his ballot.

Senator Gonzales. But under the existing law, we have a rule for a situation like that, do we not?

Senator Santiago. That is right, Mr. President. However, there is still hope in that situation. If the voter makes a mistake, the machine will disregard his vote for that particular vacancy where he seeks to make a correction or where he may have made a mistake. The ballot would be considered stray only for that

particular item but not in its entirety.

Senator Gonzales. Only that particular vote will be affected, not the whole ballot.

Senator Santiago. No, not the entire ballot.

Senator Gonzales. The count is to be done by precinct, will it not?

Senator Santiago. At the counting center, the counting will be done by precinct.

Senator Gonzales. Everytime the counting of the ballots in a particular precinct shall have already been completed, the machine will be stopped in order to pave the way for the counting of the ballots in other precincts.

Senator Santiago. That is correct, Mr. President. In the next precinct, yes, that is correct, Mr. President.

Senator Gonzales. After the counting of the votes, the next step will be in the preparation of the election returns.

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

Senator Gonzales. How are election returns generated?

Senator Santiago. It will be generated by the same machine which counted the votes for that precinct.

Senator Gonzales. It assumes that all the ballot boxes in the municipality or city have been brought to the counting machine and duly counted.

Senator Santiago. That is the assumption, Mr. President.

Senator Gonzales. Usually the speed of any system in actual practice is determined by the slowest of its component.

Senator Santiago. As a general theory, that is correct, Mr. President.

Senator Gonzales. Is there any gap or interval between the time when the counting of the ballots shall have been completed and the preparation or generation of the election returns?

Senator Santiago. What will happen is that the machine not only reads and counts but tallies the votes at the same time. The machine will preserve in its memory the results for every precinct and tally them after all the precincts have been counted.

Senator Gonzales. After which, the bill would require that the election returns be printed. For it to be an official election document, it must be authenticated by the signature and thumbprints of the members of the Board of Election Inspectors. Is that correct?

Senator Santiago. That is correct. If the point is that delay might incur, that would be obviated by the factual results of the testing of the machine showing that the results can be generated in two minutes' time, while the next precinct is preparing for the feeding. So there will be an interval of two minutes between each precinct.

Senator Gonzales. The election returns are not prepared through the use of an external device like a keyboard or a monitoring machine.

Senator Santiago. No, Mr. President.

Senator Gonzales. Or is it just a one stand-alone equipment?

Senator Santiago. Yes, the machine stands alone so it does all the operations by itself.

Senator Gonzales. The bill requires the Board of Election Inspectors to authenticate. What are they supposed to authenticate?

I can understand the election returns prepared under the existing law because they are participants in the counting of votes; they have personal knowledge of the proceedings. But how about in this case when actually the count was not done by the Board of Election Inspectors but by a machine that cannot be cross-examined?

What do the members of the Board of Election Inspectors certify? They are certifying to something that they do not know or have not participated in.

Senator Santiago. They will simply certify that the contents of the ballot box for the precinct are the properly cast ballots for that particular precinct number, municipality or province.

In other words, the BEI certifies as to the results produced by the machine—"We certify that the machine counted this certain number of ballots."

Senator Gonzales. But what is important, I think, is the statement of the count, the results. They can only certify to the process observed by them but, certainly, they cannot certify to

the veracity of the count itself.

Senator Santiago. That is correct. I will agree with that. From the broader viewpoint, on the precinct level, of course, the Board of Election Inspectors will no longer count since that function would have been turned over to the machine.

In effect, the importance of the BEI at the precinct level would be the transportation of the ballot box from the precinct to the counting center.

Senator Gonzales. After the election returns, we have the certificate of canvass. Now, there is an interruption between the time of the preparation of the completion of the election returns and the canvass by the Board of Canvassers.

Senator Santiago. Yes, there is a time gap.

Senator Gonzales. In that particular case, the time gap is certain because the law requires that after the preparation and authentication of the election returns, the members of the Board of Election Inspectors will announce the results of the election in a particular precinct as embodied in the election returns. Is it not, Mr. President?

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

Senator Gonzales. What is the purpose of the law in requiring such announcement?

Senator Santiago. I suppose that what is intended is to furnish the representatives of the political parties at the level of the counting center at least with information that they can use to verify the aggregate tallies at the provincial level.

Senator Gonzales. Probably, in addition, the purpose of our existing laws is to properly advise, at least, the voters in a particular precinct of the results of the election in that precinct.

Senator Santiago. Yes, of course, that is true. There is a basic duty to inform the immediate constituency of the results of the process in which they have just participated.

Senator Gonzales. In fact, that is one of the pleasures that voters look forward to, to be informed of the results of the election. *Kung iyong kandidato nila ay nanalo o natalo; kung sino ang nanalo sa isang partikular na presinto.*

Mahalaga sa isang botante iyon, and I think it is already a part of our culture.

Senator Santiago. Yes, that is correct. The closer the

proximity to the process, the higher the degree of enthusiasm.

Senator Gonzales. And in a way, because of that transparency, it lends to the credibility of the election.

Senator Santiago. Yes, that is correct.

Senator Gonzales. But that is no longer present now because the announcement of the results of the election will be made in the place where the counting machine is located; where none of the voters in the precinct would be present during the announcement. So, what purpose does it serve?

Senator Santiago. Sadly, that is a correct observation, yes. The actual voters in the precinct will have no way of knowing what was the result of the voting in their precinct unless they bother traveling to the counting center.

Senator Gonzales. Which we know is not only impractical but also too much to expect of a voter.

Senator Santiago. It is not always practical.

Senator Gonzales. So, what is the time lag between the election returns and the certificate of canvass?

Senator Santiago. I had material before indicating that it could be about 30 minutes.

Senator Gonzales. It is about 30 minutes. So, in short, counting and canvass is not one continuous process but there are intervals of the same?

Senator Santiago. That is correct. The interval is 30 minutes per municipality.

Senator Gonzales. Now, is the certificate of canvass prepared and printed by the same machine that we are talking about or is it by a different machine?

Senator Santiago. It would normally be by a different machine. For example, if we sent the returns of the various automated counting machines from the various localities to the Congress at the national level, Congress would be using ordinary computers to consolidate all the results from the various precincts.

The counting machine will have the capability to consolidate the votes only if it was the machine itself which counted those votes.

Senator Gonzales. True enough. My point is, the machine

contemplated under this bill with this provision is not a stand-alone device?

Senator Santiago. In that sense.

Senator Gonzales. So, in fact, the machine contemplated here does not have the capability to consolidate the results of the election without human intervention?

Senator Santiago. It depends. At what level are we discussing consolidation?

Senator Gonzales. Here, we are talking of this particular level, Mr. President.

Senator Santiago. Are we discussing municipal counting centers or provincial counting centers—

Senator Gonzales. Certificates of canvass.

Senator Santiago. —or national counting center?

Senator Gonzales. We are talking of the municipal level.

Senator Santiago. On the municipal level—then the machine could be rightly called a stand-alone machine. It would be able to consolidate all the results for the various precincts in that municipality.

Senator Gonzales. My impression is that there was an external or independent machine used for this purpose. The operators have to use keyboards that is why there is delay in the reading and consolidation of the votes. But at any rate, we can require some other provision for this matter.

Senator Santiago. Yes. Human intervention would come in, at least, at the provincial level but normally at the national level.

Senator Gonzales. Now, the municipal certificate of canvass will be the basis for the canvass of the results of the local elections and the proclamation of its results. When I speak of local, I am referring to the city or municipal officers, is that not correct, Mr. President?

Senator Santiago. That is correct.

Senator Gonzales. Is it possible to have a municipal certificate of canvass if there are precincts whose ballots which for one reason or another have not reached the counting machine and therefore not counted?

Senator Santiago. The machine would naturally consolidate...

Senator Gonzales. Suppose ballot boxes along the way have been stolen or these have been lost or destroyed?

Senator Santiago. The machine would naturally consolidate only those votes that it itself counted. So, if the votes have not been fed into the machine, it cannot take them into consideration in arriving at the consolidated tally or result.

Senator Gonzales. There are actually different boards of canvassers. For the municipal elective officers, we have the municipal board of canvassers; for the provincial elective officials, we have the provincial board of canvassers; for the city elective officials, we have the city board of canvassers. They are also the same board of canvassers in the city and province for members of the House of Representatives except that for provinces with two or more legislative districts, each of the latter will have its own district board of canvassers. For the senators, the Comelec is the board of canvassers and for the election of the president and vice president, it will be the Congress of the Philippines.

But in reality, the real canvass is done in the municipal level, is it not?

Senator Santiago. May I request the good gentleman to please explain.

Senator Gonzales. May I explain it with the lady senator's permission.

The election returns will be prepared on the municipal level, then on the basis of these returns the certificate of canvass will be generated. The certificate of canvass is a canvass not only of the results of the local elections but also of national officials, only that the power to proclaim who has been elected, or proclamation, is limited to municipal offices. But the votes received by national officials are there.

So, in this particular case, they are transmitted through the provincial or city board of canvassers. It is the certificate of canvass which is sent to the provincial and city board of canvassers not the election returns, not the ballots themselves, is it not?

Senator Santiago. That is the present procedure.

Senator Gonzales. Therefore, the canvass will be done according to the counts of votes stated in the municipal COC or certificate of canvass?

Senator Santiago. Now I understand the good senator's perspective. Yes, that is correct.

Senator Gonzales. On the other hand, the provincial or city or district board of canvassers also prepares its own certificate of canvass? That is for provincial, city and district elective officers?

Senator Santiago. That is correct.

Senator Gonzales. These boards will then proclaim these officers-elect. But included therein are also votes for senators and the president and the vice president. So when they are sent, let us say, to the Commission on Elections for canvass with respect to senators, and to the Congress with respect to the president and vice president, the canvass by those bodies will depend not upon the ballots, not upon the election returns but upon the votes as appearing in the certificates of canvass?

Senator Santiago. I agree with the gentleman completely. In other words, the national canvassing body will depend upon aggregate documents; they do not canvass on the basis of the primary document by which we mean the election returns at the precinct level. They are in effect therefore standing on the shoulders of other levels.

Senator Gonzales. That is correct. So, all these are based upon the correctness and integrity of the municipal canvass?

Senator Santiago. Yes, that is correct.

Senator Gonzales. The certificates of canvass duly prepared by a municipal board of canvassers, together with a hard disk or whatever we call it—

Senator Santiago. The diskettes.

Senator Gonzales. —from the cities and municipalities will now be sent to the provincial and city or district board of canvassers normally located within their respective capital. They will be sent manually or physically just what we are doing today, is it not?

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. That is beyond the control of this automated system.

Senator Santiago. That is a correct statement. The machine basically just counts and tallies the votes.

Senator Gonzales. That is it, because I am pointing out that this machine does not really do away with the delay. Yet speed is one of the features of this automated system. And through the series of questions, I want to prove that it is not really that fast.

Baka kaya masyado ang pag-asa natin; we are building only false hopes, so they are to be examined.

The same is true with respect to the certificate of canvass issued by the provincial and city board of canvassers sent to the Commission on Elections for the canvass and proclamation of the results of the election of senators. Is that not correct?

Senator Santiago. That is correct.

Senator Gonzales. The same is also true with respect to the transmission of the certificates of canvass from the provincial, city and district board of canvassers to the Congress of the Philippines, addressed to the President of the Senate, in its capacity as a national board of canvassers for the office of president and vice president. Is that not correct?

Senator Santiago. That is correct. The machine just stands in one corner and counts the votes. It does not obviate the need for human intervention at certain critical points. That is conceded.

Senator Gonzales. Let us see. That is where I am going into.

Considering that the purpose of the law in requiring that the election returns shall be opened and the results of the election in a precinct is announced is no longer present, because we have now different circumstances under this bill, can we not omit this process and provide for a single continuous process so that from the counting of the votes, then the end result will necessarily and immediately be the certificate of canvass to be supported by a statement of votes per precinct?

Senator Santiago. Please let me clarify that the procedure will be more or less as follows:

The board of election inspectors prepares the election returns for the precinct. Then the municipal or the city board of canvassers will canvass the election returns, and then will produce the municipal or the city certificate of canvass with a statement of votes per precinct. Thereafter, the next step is for the provincial board of canvassers to canvass and then to produce the certificate of canvass on the provincial level together with its own corresponding statement of votes. The third level is the national board of canvassers, meaning to say, the House or the Senate acting as a board of canvassers. The national board will have copies of the election returns which can be opened upon orders of the Comelec.

We can order the use of a modem if we insert the proper provision in the present bill. If we use the modem or networking,

then VSAT or other means of communications can be used. We can put this as part of the law.

Senator Gonzales. That is precisely the purpose of my line of questioning at this point. Now, as I have said, I can understand the purpose of the law that requires announcement of the results of the election in a precinct, but I cannot understand it under this bill.

So, if the purpose of that provision is no longer present, can we then dispense with it so that from the time of the counting of the ballots, it will be a single continuous process? Then we can truly speak of a stand-alone device without human intervention where the end result will be the certificate of canvass.

Senator Santiago. Apparently when they tested the machines, the Comelec found that the counting machines at present available in the market do not have that capability.

Senator Gonzales. I do not know, but that is the trouble because we have already in mind—excuse me, when the bill is sent to this Body, *alam na nila kung anong makina ang gagamitin*. So we fit the provisions of the law to the capability of that machine. But we want to generate a system that will not only be reliable but fast. That can be done. That is technically feasible. Let the suppliers adopt or build their machines according to our specifications.

Senator Santiago. That is possible. I believe that the Comelec paradigm for the pilot testing of the automated counting system for 1998 is basically dictated upon by the fact that we have so little time before actually opening public bidding for the machines. If they included one more requirement or one more specification, then immediately there will be additional delay.

Senator Gonzales. So we say that the transmission of the certificates of canvass from the municipality to the province, city or district, from the latter to the Commission on Elections, from the provincial, city and district board of canvassers to Congress, are all intervals which are not within the contemplation and reach of this machine. Should we not require that the machine to be acquired has a terminal that can connect it instantly from one point to another?

Senator Santiago. That is the modem.

Senator Gonzales. Yes, Mr. President.

Senator Santiago. It is certainly within the capability of the Legislature to include such a provision in the present bill. In fact, the Comelec itself has made a similar provision. It might make the machine slightly more expensive but it is possible.

Senator Gonzales. So that can be done.

Senator Santiago. That is correct. However, it will no longer be a stand-alone machine because of the modem.

Senator Gonzales. Probably, we can always aim for the ideal. Then we should lay down a set of requirements for the machine to be procured and giving the Comelec the authority to adopt a schedule of rating for variations and deficiencies. Because not all of them may be able to comply with the requirements under the law. In that case, therefore, the Comelec will be in a better position to acquire the best machine for our kind of money.

Senator Santiago. That is correct, Mr. President, and I agree. I believe that the Comelec has been trying to balance the call for a stand-alone machine on the ground that we do not want an evil genius to control the entire network. This was the basis for the demand or for the requirement that the machine must be a stand-alone machine in order to avoid the possibility of one particular group or source controlling an entire network if the machines network with each other through a modem.

On the other hand, if the machines network with each other by means of a modem, then we could eliminate the delay that the gentleman has been criticizing so far. So I believe that the position of the Comelec was shaped by these considerations, and most recently, the Comelec has already issued a formal statement that it is willing for the machines to have modems in order to network with each other.

Senator Gonzales. If and when this bill is enacted into law and actually used in the 1998 and subsequent elections, are election protests authorized?

Senator Santiago. Yes, definitely.

Senator Gonzales. But there is no provision in this bill regarding election protests.

Senator Santiago. That was because of the assumption that this bill, even if it becomes a law, will not necessarily negate all other applicable provisions of the Election Code. But in any event, just to be sure...

Senator Gonzales. But with respect to places wherein it will be applicable, certainly, the rules governing election protests under existing law are not applicable to the automated system of voting.

Senator Santiago. Then I would be perfectly willing to accept an amendment for an additional provision or provisions

in the bill that would specify a system of election protest particularly designed to coordinate or to network with automated counting system.

Senator Gonzales. Because much of the electoral contests are based upon what we call "appreciation of the ballots." But under this bill, will there still be rules on the appreciation of ballots?

Senator Santiago. I believe there is none. There would be nothing to appreciate except the shades in the oval spaces.

Senator Gonzales. So that is the point, unless the sponsor will say that the counting machine is wrong.

Senator Santiago. That is right, unless one proves, for example, that the counting machine has a backdoor entry, that is to say, a secret way of manipulating the computer code or unless it has so-called "trojan horses" or "timebombs."

Senator Gonzales. So with that, I conclude my interpellation to allow other colleagues to make their own. It has been a great pleasure and honor on my part to have been allowed this interpellation.

Thank you, Mr. President.

Senator Mercado. Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF SESSION

Senator Mercado. Mr. President, may I ask for a suspension of the session.

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

It was 5:12 p.m.

RESUMPTION OF SESSION

At 5:13 p.m., the session was resumed.

The President. The session is resumed.

Senator Mercado. Mr. President.

The President. The Majority Leader is recognized.

Senator Mercado. Mr. President, the Minority Leader has additional questions.

The President. The Minority Leader is recognized.

Senator Gonzales. Because of limited funds, we may not be able to procure the best available electoral technology or equipment for this purpose. But we are looking forward to the day when we shall have computerization or automation from the precinct level; from the precinct level to the place where the municipality is located which, under this bill, is usually where the counting machine is located; from the municipality to the province or city; from the province or city to the Commission on Elections or to the President of the Senate, as the case may be. That is something that we are aiming for.

Can we not require then that whatever machine we are going to procure should make provisions for that contingency? Meaning, it is so designed and built that at some time in the future, we can add to it so that the total national computerization or automation can be provided?

Senator Santiago. Thank you. I would now like to react to the question including its preface.

First, we have enough funds to institute automation comprehensively throughout the country at both the national and local levels because at present Comelec has some P800 million for the purpose. What we lack at this point is time. Unless the Congress passes this bill by the first week of December, we will not be able to implement automation even on a pilot-test basis. So even to implement it only on a pilot-test basis among the 17 urbanized cities that have been identified by the Comelec, we will have to pass this bill by the first week of December.

Second, with respect to the main grasp of the question itself, to the substance of the question, it is only the software that needs to be changed under the present state of technology. For example, the machines, the AIS 150 machines that were used in the 1996 ARMM elections can very well be used for the 1998 elections. All we need to do is change the software.

If, let us say, we instituted comprehensive automation in time for the national elections in 2001, since we would not need automation for the local elections that will precede 2001, six years thereafter, under the present state of technology, those machines would still be useful. They would only need possibly a change of software.

But just to make sure, we can add this provision to the existing bill, that there should be certain add-on capabilities of the machine so that instead of buying an entirely new set when the technology changes, we can keep abreast with technology simply by adding on certain features.

Senator Gonzales. I have been requested by one of our colleagues to inquire at how much or at what cost would a machine entail.

Senator Santiago. The present costing of the Comelec is P800,000 per machine. These are the machines that we are already familiar with through our discussions here in the Senate.

Conceivably, therefore, if it had this add-on capability, it would come closer to the neighborhood of P1 million per machine.

Senator Gonzales. What are we aiming at? What are we going to acquire or procure?

Senator Santiago. Right now, we are simply planning to procure machines that are stand-alone.

Senator Gonzales. That is we are actually outside of the special kind of ballot.

Senator Santiago. That is right.

Senator Gonzales. Automation really starts from counting.

Senator Santiago. That is right.

Senator Gonzales. I think that will be all. I thank again my distinguished colleague for this opportunity, Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2314

Senator Mercado. Mr. President, I move that we suspend consideration of Senate Bill No. 2314.

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

SUSPENSION OF SESSION

Senator Tatad. Mr. President, may I ask for a suspension of the session.

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

It was 5:18 p.m.

RESUMPTION OF SESSION

At 5:24 p.m., the session was resumed.

NOV. 18, 1997

recommending its approval in substitution of Senate Joint Resolution No. 13.

Sponsors: Senators Gonzales, Coseteng and Herrera

The President. To the Calendar for Ordinary Business

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

BILL ON SECOND READING
S. No. 2314—Automated System Act of 1998
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2314, as reported out under Committee Report No. 609.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 2314 is now in order.

Senator Tatad. Mr. President, we are still in the period of interpellations. When we last suspended, the Minority Leader was interpellating and I understand he would like to propound just two more questions to our distinguished sponsor.

I ask that the distinguished sponsor and the Minority Leader be now recognized.

The President. The senator from Iloilo, Sen. Miriam Defensor Santiago, and the Minority Leader, Sen. Neptali A. Gonzales, are recognized.

Senator Gonzales. Thank you, Mr. President. Will the kind sponsor yield for one or two questions just to complete the record?

Senator Santiago. Mr. President, as long as it is Sen. Neptali A. Gonzales who is involved, I tremble and obey.

Senator Gonzales. Thank you. *Mukhang ayaw ko nang magtanong, Ginoong Pangulo.* [Laughter]

On the basis of the ARMM experience, will the distinguished sponsor tell us how long did it take from the day of the election to the time of proclamation of the municipal officers elect, the provincial officers elect and the regional, that is in ARMM, the Autonomous Region of Muslim Mindanao?

How long did that take?

Senator Santiago. I have the statistics here. On the average 24 to 48 hours, it took two days to proclaim the governor and the vice governor but that is because they ran uncontested.

Senator Gonzales. In fact, the count there is hardly material, especially when we consider a law that we have passed that when a candidate is unopposed, then he can immediately be proclaimed elected.

Senator Santiago. That is correct.

Senator Gonzales. That is all. So, for the municipal and provincial-officers elect, it is from 24 hours—

Senator Santiago. From 24 to 48 hours.

Senator Gonzales. —to 48 hours. That means two days?

Senator Santiago. That is right.

Senator Gonzales. That will be all, Mr. President. I thank the lady senator from Iloilo for her answers.

The President. The Majority Leader is recognized.

Senator Tatad. Mr. President, the only other reservation to interpellate was previously made by the gentleman from Cebu, Senator Fernan; he has withdrawn that reservation.

I move that we close the period of interpellations.

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

SUSPENSION OF CONSIDERATION OF S. NO. 2314

Senator Tatad. I move to suspend consideration of Senate Bill No. 2314.

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, Committee Report No. 444 on Senate Bill No. 2104, entitled

AN ACT LIFTING THE BAN ON ELECTION PROPAGANDA FOR PARTIES AND CANDIDATES SEEKING NATIONAL

ng Komite sa filmmaker kung bakit naging R-18 ang isang pelikula ay hindi nangangahulugan na ang komite ay lumabag sa probisyon ng Seksiyon 12. Ang aksiyon pong ito ng komite ay hindi maituturing na suhestiyon. Sa ilalim ng panukalang-batas na ito, the committee is obliged to inform the filmmaker of its decision. Natural lamang na malaman ng filmmaker kung anong naging basehan ng komite sa naging desisyon nito. Ito ay pagpapahiwatig lamang ng karapatan ng isang prodyuser na gustong malaman kung bakit nagkaroon ng ganoong rating ang kaniyang pelikula. Hindi po ito bawal.

Senator Tatad. Mr. President.

The Presiding Officer [Sen. Mercado]. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2239

Senator Tatad. With the permission of the two gentlemen on the floor, I move to suspend consideration of Senate Bill No. 2239.

The Presiding Officer [Sen. Mercado]. Is there any objection? [*Silence*] There being none, the motion is approved.

MOTION OF SENATOR TATAD

(Referral of S. No. 954 to Government Corporations and Public Enterprises Committee as the Primary Committee; and Youth, Women and Family Relations Committee as the Secondary Committee)

Senator Tatad. Mr. President, I move for the reconsideration of the referral of Senate Bill No. 954, entitled "An Act to Create a Corporation to be Known as the Girls Scouts of the Philippines, and for Other Purposes," previously referred to the Committee on Youth, Women and Family Relations. I move that this be referred instead to the Committee on Government Corporations and Public Enterprises as the primary Committee and the Committee on Youth, Women and Family Relations as the secondary Committee.

The Presiding Officer [Sen. Mercado]. Is there any objection? [*Silence*] There being none, the motion is approved.

SPECIAL ORDERS

Senator Tatad. I also move to transfer from the Calendar for Ordinary Business to the Calendar for Special Orders, Committee Report No. 679 on Senate Joint Resolution No. 21, entitled

JOINT RESOLUTION ESTABLISHING A LEGISLATIVE CAREER SERVICE FOR THE

CONGRESS OF THE PHILIPPINES, PROVIDING RETIREMENT BENEFITS FOR ITS OFFICERS AND EMPLOYEES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

and Committee Report No. 507 on Senate Bill No. 1794, entitled

AN ACT AMENDING TITLE I, CHAPTER 3 ARTICLE 39 OF EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS THE FAMILY CODE OF THE PHILIPPINES, NULLIFYING THE PRESCRIPTIVE PERIOD FOR ACTIONS OR DEFENSES GROUNDED ON PSYCHOLOGICAL INCAPACITY.

The Presiding Officer [Sen. Mercado]. Is there any objection? [*Silence*] There being none, the motion is approved.

BILL ON SECOND READING

S. No. 2314—Automated Election Systems Act of 1997
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2314 as reported out under Committee Report No. 609.

The Presiding Officer [Sen. Mercado]. Is there any objection? [*Silence*] There being none, resumption of consideration of Senate Bill No. 2314 is now in order.

At this juncture, Sen. Orlando S. Mercado relinquished the Chair to the Senate President.

Senator Tatad. We are now in the period of amendments. I ask that the distinguished sponsor, the chairperson of the Committee on Constitutional Amendments, Revision of Codes and Laws, be recognized.

This is a substitute measure; therefore, the measure itself is the committee amendment. The sponsor may propose certain individual amendments that have been collated in the course of the debates.

Senator Fernan. Mr. President.

Senator Tatad. Mr. President, I ask that the distinguished gentleman from Cebu be also recognized.

The President. The distinguished Senators from Iloilo and Cebu are recognized.

Senator Fernan. Mr. President, this representation is about

to propose an amendment to Section 3 of Senate Bill No. 2314. This refers to a matter that I consider prejudicial in nature because it provides for a mode of computerization which, to me, should be resolved first and foremost before we tackle the other provisions. The provisions of the bill will be amended accordingly as soon as there is a decision on the extent and scope of computerization.

With the kind permission of the distinguished chairperson, Section 3 should be amended.

POINT OF ORDER

Senator Santiago. Point of order, Mr. President.

The President. Will the lady senator state the point of order?

Senator Santiago. I, myself, as sponsor, wish to make an individual amendment to this particular section. Would it be preferable for me to propose my amendment first and for the gentleman to then rise to amend my amendment by substitution or by some other means?

The President. Yes. The committee has the priority in the presentation.

Senator Fernan. Yes. I yield, Mr. President.

Senator Santiago. Thank you. Maybe it would be better if I just call out the sections of the bill in chronological sequence and wait whether any senator wishes to propose an amendment. In that way, we can go to the bill sequentially.

I am going to call out the section number and the section subtitle. If there is no hand raised from the floor, I will proceed to the next section.

Section 1. *Declaration of Policy.* [Silence]

Section 2. *Definition of Terms.*

Senator Fernan. Mr. President.

The President. The gentleman from Cebu is recognized.

Senator Fernan. Mr. President, at this stage, while there are certain terms that should be added in Section 2, it would be premature for us to propose these amendments that would add to the terms found in Section 2 until the matter of Section 3 has been resolved.

Senator Santiago. I take that point very well. Thank you.

So I shall proceed immediately to Section 3, "Authority to Use an Automated Election System."

The present first paragraph will remain. My proposal is to amend the part that begins with a proviso. The present proviso should be amended to read as follows:

PROVIDED, THAT FOR THE 1998 ELECTIONS, THE SYSTEM SHALL BE APPLIED ON A PILOT TEST EXPANSION BASIS TO THE SEVENTEEN (17) HIGHLY URBANIZED CITIES, NAMELY: MANILA, QUEZON, CALOOCAN, PASAY, BAGUIO, ILOILO, BACOLOD, CEBU, ZAMBOANGA, CAGAYAN DE ORO, DAVAO, MAKATI, MANDALUYONG, PASIG, LAS PIÑAS, MARIKINA, AND MUNTINLUPA CITIES;

PROVIDED, FURTHER, THAT ON NO ACCOUNT SHALL THE ELECTIONS BE CANCELLED, POSTPONED OR OTHERWISE DECLARED AS RESULTING IN A FAILURE OF ELECTION ON THE GROUND OF INCAPABILITY TO IMPLEMENT THE SYSTEM. IN CASE OF SUCH INCAPABILITY, THE COMMISSION SHALL TAKE IMMEDIATE STEPS TO HOLD THE ELECTIONS AS SCHEDULED BY APPLYING THE MANUAL SYSTEM AS AN ALTERNATE SYSTEM BUT CONFINED STRICTLY TO THE POLLING PLACE WHERE THE INCAPABILITY IS UNAVOIDABLE.

Senator Fernan. Since we have now reached Section 3, and there is now a committee provision spelled out earlier by the distinguished chairperson, this representation would like to propose an amendment to Section 3. The first paragraph remains as is with certain changes so that it will now read, as amended:

SECTION 3. Authority to Use an Automated Election System.—To carry out the above-stated policy, the Commission on Elections, here referred to as the Commission, is hereby authorized to use an Automated Election System, here referred to as the System, for the process of counting of votes and canvassing, consolidation of results of the national and local elections, and for the process of voting in subsequent electoral exercises, PROVIDED, THAT FOR THE MAY 11, 1998 ELECTIONS THIS SYSTEM SHALL BE APPLICABLE ONLY FOR THE POSITIONS OF PRESIDENT, VICE PRESIDENT, SENATORS AND PARTY-LIST REPRESENTATIVES.

It will be noted that the words "in the May 11, 1998" are deleted. The words "when appropriate" and "the automated election" are also deleted.

In addition, this representation would also like to propose an additional paragraph to the same Section 3 which shall read as follows:

"THE COMMISSION SHALL IMPLEMENT THE AUTOMATED ELECTION SYSTEM FOR THE POSITIONS OF PRESIDENT, VICE PRESIDENT, SENATORS AND PARTY-LIST REPRESENTATIVES IN ALL AREAS WITHIN THE COUNTRY FOR THE MAY 11, 1998 ELECTIONS. TO ACHIEVE THE PURPOSE OF THIS ACT, THE COMMISSION IS AUTHORIZED TO PROCURE ANY SUPPLIES, EQUIPMENT, MATERIALS AND SERVICES NEEDED FOR THE HOLDING OF THE ELECTIONS BY SEALED BIDS; *PROVIDED*, THAT THE ACCREDITED POLITICAL PARTIES ARE DULY NOTIFIED. IF IN SPITE OF THE EXERCISE OF THIS AUTHORITY, IT BECOMES EVIDENT BY FEBRUARY 1998 THAT THE COMMISSION CANNOT FULLY IMPLEMENT THE AUTOMATED ELECTION SYSTEM FOR NATIONAL POSITIONS IN THE MAY 11, 1998 ELECTIONS, THE ELECTIONS FOR BOTH NATIONAL AND LOCAL POSITIONS SHALL BE DONE MANUALLY."

The reason for this proposed amendment is that having a different method of voting in some cities which is to be computerized as against the manual voting in other places, then it will give rise to a possible trending considering that the results of the automated elections are expected to be known ahead of the results in the manualized voting. So we want to avoid that trending.

Besides, the proposal to enumerate certain cities or highly urbanized places as the venue for the automated elections would involve all positions that would be at stake during the 1998 elections, from president down to councilors, which would involve the preparation of more ballots for the machine because the names of the candidates have to be placed already and for every municipality we will need a separate ballot form. That is the reason we have proposed this amendment.

POINT OF ORDER

Senator Gonzales. Mr. President, may I raise a point of order.

The President. The Minority Leader is recognized.

Senator Gonzales. Actually, there are two proposed amendments here on the same subject matter and that is the scope of the automated election in 1998. No less than the chairman of the committee had introduced an amendment providing for a pilot-testing of this automated system of voting in the 17 highly urbanized cities. Now, the vice chairman is proposing a nationwide implementation of the automated system with respect to national offices.

Can this be possible, Mr. President? Which has the priority and which should we consider now?

The President. The parliamentary status is that the sponsor has proposed an amendment. In effect, the gentleman from Cebu is proposing an amendment to the amendment.

SUSPENSION OF SESSION

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

It was 4:46 p.m.

RESUMPTION OF SESSION

At 4:53 p.m., the session was resumed.

The President. The session is resumed. The lady Senator from Iloilo is recognized.

MANIFESTATION OF SENATOR SANTIAGO (Proposal to Prepare a Document on Terminology)

Senator Santiago. Mr. President, may I please have permission to make a manifestation.

With the motion to amend my amendment presented by the vice chairman of the Committee on Constitutional Amendments, Revision of Codes and Laws, I believe that we have reached the very core of the present bill. All other provisions will flow from the choice between the gentleman's amendment and my preceding amendment.

I have, therefore, proposed with the gentleman's consent that each of us will prepare a document showing the proposed terminology of Section 3 and justifying the concept embodied in the proposed Section 3. This document shall be distributed to every senator tomorrow morning and thereafter, on Monday, as the first item in the working agenda, the senators may then be requested or directed to come to a division of the House on this issue.

Thereafter, we anticipate that we shall be speedily able to terminate the amendment stage of the proceedings.

Senator Fernan. Mr. President, we agree with the well-taken proposal of the distinguished chairperson of the committee.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION S. NO. 2314

Senator Tatad. Mr. President, in the light of that manifestation, I move that we suspend consideration of Senate Bill No. 2314.

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

SUSPENSION OF SESSION

Senator Tatad. Mr. President, may I ask for a few minutes' suspension of the session.

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

It was 4:55 p.m.

RESUMPTION OF SESSION

At 5:03 p.m., the session was resumed.

The President. The session is resumed.

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Mr. President, may I ask the Secretary to read the Additional Reference of Business.

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

The Secretary will read the Additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Secretary.

November 13, 1997

The Honorable ERNESTO M. MACEDA President of the Senate Financial Center Pasay City 1308

Mr. President:

I have been directed to inform the Senate that the

House of Representatives on October 1, 1997 passed House Bill No. 9360, entitled

AN ACT INSTITUTIONALIZING THE SOCIAL REFORM AND POVERTY ALLEVIATION PROGRAM, CREATING FOR THE PURPOSE THE NATIONAL ANTI-POVERTY COMMISSION, DEFINING ITS POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES,

to which it requests the concurrence of the Senate.

Very truly yours,

(Sgd.) ROBERTO P. NAZARENO Secretary General

The President. Referred to the Committee on Rules

The Secretary.

November 13, 1997

The Honorable ERNESTO M. MACEDA President of the Senate Financial Center Pasay City 1308

Mr. President:

I have been directed to inform the Senate that the House of Representatives on November 13, 1997 passed House Bill No. 5970, entitled

AN ACT SEPARATING THE DON JOSE SUSTIGUER MONFORT MEMORIAL NATIONAL COLLEGE IN THE MUNICIPALITY OF BAROTAC NUEVO, PROVINCE OF ILOILO, FROM THE WESTERN VISAYAS COLLEGE OF SCIENCE AND TECHNOLOGY, TO BE KNOWN AS THE DON JOSE SUSTIGUER MONFORT STATE COLLEGE, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES,

to which it requests the concurrence of the Senate.

Very truly yours,

(Sgd.) ROBERTO P. NAZARENO Secretary General

NOV. 24, 1997

The Secretary. Senators

- Alvarez Yes
- Angara Yes
- Coseteng
- Drilon
- Enrile..... Yes
- Fernan Yes
- Flavier Yes
- Gonzales Yes
- Herrera Yes
- Honasan Yes
- Macapagal
- Magsaysay Jr.
- Mercado Yes
- Ople Yes
- Osmeña III Yes
- Revilla Yes
- Roco Yes
- Romulo Yes
- Defensor Santiago Yes
- Shahani.....
- Sotto III Yes
- Tatad Yes
- Webb Yes
- The President Yes

constitute the Senate panel to the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1471 and its House counterpart. I hereby nominate Sen. Freddie N. Webb as Chairman and as members, Senators Juan M. Flavier, Ramon B. Magsaysay Jr., Gregorio B. Honasan and Orlando S. Mercado.

The President. Is there any objection? *[Silence]* There being none, it is so constituted.

BILL ON SECOND READING

S. No. 2314—Automated Election System Act of 1998
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2314 as reported out under Committee Report No. 609.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 2314 is now in order.

Senator Tatad. Mr. President, we are in the period of amendments. When we last suspended, the sponsor was proposing an amendment to which the gentleman from Cebu was proposing his own amendment.

Mr. President, I ask that our two distinguished colleagues be recognized.

The President. The sponsor, the lady from Iloilo and the gentleman from Cebu, Senator Fernan, are recognized.

Senator Santiago. Mr. President, with the Chair's permission, I would like to give, in one sentence, the parliamentary status of this particular amendment to Section 3 sub-entitled "Authority To Use An Automated Election System."

Mr. President, as presently worded, Section 3 provides for a pilot test area consisting of three regions. However, the Comelec has categorically informed the Senate that it will not be in a position to implement the automated election system in the three regions. Therefore, as sponsor of the measure, I have been constrained to move to amend the three regions now included in Section 3. Section 3 will refer to the pilot test area as consisting of 17 highly-urbanized cities.

The main reason I make this amendment is simply to articulate the Comelec advice that Comelec will be able to implement the computerized system in these 17 highly-urbanized cities.

On the other hand, Mr. President, to present the widest

APPROVAL OF H. NO. 1432 ON THIRD READING

The President. With 19 affirmative votes, no negative vote, and no abstention, House Bill No. 1432 is approved on Third Reading.

CONFERENCE COMMITTEE ON S. NO. 1793/H. NO. 9806
(Regulating the Practice of Mechanical Engineering in the Philippines)

Senator Tatad. Mr. President, I move that we constitute the Senate panel to the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1793 and House Bill No. No. 9806. I hereby nominate Senator Coseteng as Chairperson and as members, Senators Drilon, Magsaysay and Angara.

The President. Is there any objection? *[Silence]* There being none, it is so constituted.

CONFERENCE COMMITTEE ON S. NO. 1471/H. NO. 10070
(Creating the Traditional and Alternative Health Care Authority)

Senator Tatad. Likewise, Mr. President, I move that we

possible choice to our colleagues, the vice chairperson of the committee this afternoon has sponsored an amendment providing for a pilot test area to consist of the entire country on the national level, that is to say, computerization will be implemented for all national level positions throughout the country.

The reason I proposed the 17 HUCs is simply because Comelec has stated categorically that it cannot implement computerization at the national level throughout the country. The reason for this statement by the Comelec...

Senator Tatad. Mr. President, with the indulgence of the sponsor. There is a request from the Minority that, if possible, we await the Minority Leader who has just stepped out of the room. May I ask for a one-minute suspension.

I am sorry, Mr. President. The Minority Leader is here.

The President. The sponsor may continue.

Senator Santiago. Mr. President, I am giving a summary of the basic argument in favor of each of the two options now being presented to the Senators.

The first option is to use as a pilot test area the 17 highly-urbanized cities. The major reason is simply that the Comelec has stated that this is the only area where it feels it can, with some reasonable measure of confidence, assure the Senate that computerization can be implemented on time.

In fact, there is an official Comelec panel present in this Senate Hall this afternoon simply to confirm the fact that they cannot possibly implement computerization at the national level. The Comelec panel present here consists of Commissioner Remedios Salazar-Fernando, Executive Director Resurrection Borra, and Deputy Executive Director for Administration Mamasapunod Agwam.

On the other hand, the chairperson of the same committee has proposed that the pilot test area should consist of national level positions throughout the country, on the main reason that I will quote, "If computerization is done only in selected areas on a pilot basis to cover all national and local positions, the results will be inconclusive, and there is greater possibility of trending, as only the results in certain areas will be canvassed using computers in areas where canvassing will be done manually. The election results for the highest public position in the land may still be manipulated."

I have raised the question of trending with the Comelec officials, and their official response was that they have precisely selected 17 HUCs on the ground that mostly, historically, it is the

17 HUCs that are always late in reporting to Congress as a national canvassing agency. Therefore, if there is any time gap at all between the results of the computerized elections and the results of the manualized elections, it would only be, at the very most, a couple of hours.

Last weekend, both the vice chairperson and myself circulated our respective study papers on our respective proposals. Unless the vice chairperson wishes to amplify his arguments in favor of his proposal, I will move for a one-minute suspension so that I can consult with our colleagues.

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized.

Senator Enrile. Mr. President, for my personal information, may I request some answers to basic questions?

The President. The sponsor may respond if she so desires.

Senator Enrile. Is it not the purpose of this measure, if possible, to prevent election fraud or cheating in the forthcoming election in 1998? If that is the main objective of this measure, would a pilot area consisting of 17 highly-urbanized cities achieve that objective?

Senator Santiago. That is the eventual goal of the automated election system. It is not the primary goal for the 1998 elections. Because the goal for the 1998 as for the 1996 ARMM election is to pilot test the system.

Senator Enrile. But, Mr. President, could this experiment not be done without using an election by studying the system? And my corollary question would be, does this not mean that we are going to spend people's scarce money—if I remember it correctly, the figure is P1.2 billion—just to satisfy our desire to experiment on this particular area? Can we afford P1.2 billion to throw away just like that in an experiment?

Senator Santiago. That is a legitimate concern, Mr. President. In fact, I have raised it myself, that in a Third World country that is now beset by the currency crisis and is facing the El Nino phenomenon next year, there might be, at the very least, a moral if not a legal question on our order of priority should we spend P1.2 billion for a computerized system that has no fail-safe guarantee. But if we implement computerization in the pilot test area of 17 HUCs, Comelec has stated that all we shall be spending will be some P200 million.

For the rest of the question—the other part of the question concerned the pilot testing approach—whether it is necessary to

pilot test in order to find out whether the system is feasible and desirable for the Philippine setting, our answer is in the affirmative.

As in the United States and the rest of the world, to date, pilot testing has been an accepted methodology for testing new technology. In fact, it is considered as the least expensive method of determining whether new technology should be applied to a particular situation.

Senator Enrile. In other words, Mr. President, the fact that we say we are going to test the effectiveness of this system by using 17 highly urbanized cities for that purpose suggests to me that we are not sure that it will work. And if it will not work, can we justify it to our Filipino public under our present economic condition, throwing away P200 million just like that? How many tons of skimmed milk can we buy with P200 million and provide this to the needy?

Senator Santiago. I agree that these are perfectly legitimate concerns in a Third World environment. For that reason, I have, from the very start, insisted that at least for the 1998 elections, computerization if at all should be done only on a pilot-test basis.

Senator Enrile. If we are going to try the validity of this system or this procedure, why can we not use one city, two cities or three cities at the most, instead of 17 cities?

Senator Santiago. In fact, as I have previously explained to the Senate in a prior debate session, we do not even have to spend anything if we will be content to use the 42 automated counting machines already in the possession of the Comelec which were used in the 1996 ARMM elections. The Comelec has made a study and released the results of the Senate showing that 42 automated counting machines will be sufficient to pilot test, for example, Quezon City and Manila, or Manila alone, or Makati City alone. So we have three options.

Senator Enrile. Thank you, Mr. President.

Senator Angara. Mr. President.

The President. The gentleman from Cebu earlier raised his hand. After him, the gentleman from Aurora will be recognized.

Senator Fernan. I yield because he would like to interpellate the distinguished chairperson.

The President. The gentleman from Aurora and Quezon is recognized.

Senator Angara. Thank you very much, Mr. President. Just to follow up the question of the distinguished gentleman from Cagayan. What is the share of the 17 cities in terms of vote to the total vote? How many votes will be affected in these 17 cities?

Senator Santiago. Six million votes, Mr. President, out of some expected 40 million voters.

Senator Angara. That is about one-sixth of the total votes, Mr. President. As I understand it, automating the count will achieve one good result, and that is a very swift return of the count.

For instance, in this country, in 1992, the count on the presidency and the senatorial took 42 days. But by computerizing it, it will take at least or almost 48 hours to report the result.

What is the advantage of reporting quickly only one-sixth of the vote of the country by the so-called pilot test?

Senator Santiago. The advantage would be the advantage of pilot testing in general. It will, in effect, be a macrocosm of the actual political universe where the system is sought to be launched.

Senator Angara. Yes, Mr. President. But as we remember, we have already pilot tested the computerization in the ARMM elections of 1994. So there seems to be no reason why we should again pilot test computerized count this time.

Senator Santiago. As I have explained in the previous session, the results of the ARMM elections are, at the very least, equivocal, because the law providing for the computerized pilot testing of the ARMM elections also provided for an oversight committee to submit a report on what the results of computerization were in that area.

However, the Committee was composed of three panels: the Senate, the House and the Comelec. This is how the three panels rated computerization in the ARMM pilot test area. The Comelec said it was a qualified success; the House of Representatives said it was satisfactory; and the Senate said that we should exercise maximum prudence in computerization in the light of the failings that were established by our technical working group there.

Senator Angara. In other words, Mr. President, the majority opinion is that it worked satisfactorily and that was really what the law or Congress wanted to find out—whether computerized count will work in our elections—and we have already done that in the ARMM.

As the distinguished gentleman from Cagayan said, why spend P200 million to pilot-test again the election in only 17 cities where the result will be inconclusive because only one-sixth of the total vote will be counted and it will not help at all in curing the so-called defect of delay, which is the manipulation of votes after a prolonged delay in the count?

Senator Santiago. My response to that, Mr. President, is that in the American experience within government, the pilot test experiment on any new technology is not necessarily confined to only just one test.

Pilots are defined as the trialing in a live situation of key elements of the functionality of what one is putting in place. Pilot should generally cover a small but representative part of the area that will be affected by electronic commerce implementation.

We had a pilot test in the ARMM, but we used both experienced and inexperienced staff making mistakes. My submission this afternoon is, making mistakes is a good way to learn, and the mistakes that are made can identify inadequate help or poor logic flaws in the processes or systems that are being implemented.

In other words, pilot-testing will not only provide answers to the problems on speed and accuracy but acceptability of the system prior to a nationwide implementation.

Senator Angara. Mr. President, I accept that academic definition. But based on the experience that we have gathered during the ARMM election, I believe that any defects or weaknesses in the system can be corrected now.

Instead of just the 17 highly urbanized cities, there is an alternative that we can employ. I believe that the distinguished gentleman from Cebu will present that alternative.

Thank you very much, Mr. President.

Senator Fernan. Mr. President.

The President. The gentleman from Cebu is recognized.

Senator Fernan. Thank you, Mr. President.

PARLIAMENTARY INQUIRY OF SENATOR GONZALES (On Status of S. No. 2314)

Senator Gonzales. Mr. President, before the distinguished gentleman from Cebu, the vice-chairman of the committee continue, may we know the parliamentary status of the bill?

The President. We are in the period of individual amendments, as a matter of fact.

Senator Gonzales. And there has been an amendment that has been proposed by the chairman.

The President. That is correct.

Senator Gonzales. And as per opinion of the Presiding Officer in our last meeting, after Senator Fernan had introduced an amendment, that should be merely interpreted as an amendment to the amendment.

The President. That is correct.

Senator Gonzales. So, that is the situation and we ought to be made clear of that, Mr. President.

The President. That is correct. The Fernan amendment to the amendment has been circulated in writing.

Senator Fernan. May I now proceed, Mr. President.

The President. Please proceed.

Senator Fernan. Thank you, Mr. President.

Before the consideration of Senate Bill No. 2314 was suspended on November 19, 1997, the parliamentary status was, to quote the President, "that the sponsor—referring to the chairperson, Senator Santiago—has proposed an amendment". The President further stated: "In effect, the gentleman from Cebu is proposing an amendment to the amendment".

After a brief suspension of the session on that same day, the distinguished chairperson manifested as follows and I quote: "With the motion to amend my amendment presented by the vice-chairman of the Committee on Constitutional Amendments, Revision of Codes and Laws, I believe that we have reached the very core of the present bill. All other provisions will flow from the choice between the gentleman's amendment and my preceding amendment.

"I have therefore proposed, with the gentleman's consent, that each of us will prepare a document showing the proposed terminology of Section 3 and justifying the concept embodied in the proposed Section 3. This document shall be distributed to every Senator tomorrow morning and thereafter, on Monday, as the first item in the working agenda, the Senators may then be requested or directed to come to a division of the House on this issue. Thereafter, we anticipate that we shall be speedily able to terminate the amendment stage of the proceedings."

This representation replied "Mr. President, we agree with the well-taken proposal of the distinguished Chairperson."

So, Mr. President, pursuant to that understanding, I distributed last Thursday and Friday among our colleagues our proposed amendments by substitution to Section 3 of Senate Bill No. 2314. This is presented as an amendment by substitution to the Chairperson's amendment to Section 3 of the same Senate Bill No. 2314 found on page 2, line 28, to page 3, line 12 of my proposed amendment.

Before I submit the same for the consideration of my colleagues, may I be allowed, Mr. President, to read the text of the proposed amendment and the rationale thereof. It reads as follows:

Section 3. Authority to Use an Automated Election System. - To carry out the above-stated policy, the Commission on Elections, here referred to as the Commission, is hereby authorized to use an automated election system, here referred to as the System, for the process of counting of votes and canvassing/consolidation of results of the national and local elections and for the process of voting in subsequent electoral exercises: *Provided*, That for the May 11, 1998 elections, this System shall be applicable only for the positions of President, Vice-President, Senators and Party List representatives.

The Commission shall implement the automated election system for the positions of President, Vice-President, Senators and Party-List representatives in all areas within the country for the May 11, 1998 elections.

To achieve the purpose of this Act, the Commission is authorized to procure any supplies, equipment, materials and services needed for the holding of the elections by expedited public bidding: *Provided*, That the accredited political parties are duly notified.

If, in spite of the exercise of this authority, it becomes evident by the end of February 1998 that the Commission cannot fully implement the automated election system for national positions in the May 11, 1998 elections, the elections for both national and local positions shall be done manually.

End of the provision.

May I manifest, Mr. President, that the following senators have agreed to co-sponsor my proposed amendment to Section

3, namely: Senators Angara, Herrera, Drilon, Ople, Magsaysay, Osmeña III, Shahani, Macapagal, Roco, Enrile, Alvarez, Sotto III and Revilla.

In elections, Mr. President, where there is a minimum of five candidates each for president and vice president, implementing the automated election system only for the positions of president, vice president, senators and party list representatives in all areas within the country for the May 11, 1998 elections will substantially cut down the counting and canvassing period, and in the process, minimize fraud or the manipulation of election results.

It is beyond dispute that implementing the automated election system for the May 11, 1998 elections even if only for the positions of president, vice president, senators and party list representative in all areas within the country will be a giant leap for our people who, election after election, have grown weary of poll results and tabulation, marred by human intervention or discretion in the counting and canvassing of votes.

Experience has taught us that there is greater possibility of tampering the results of the canvass of votes at the municipal or provincial level, if there is time to perform alterations on forms which are manually written and are necessarily vulnerable to revisions.

As stated in today's editorial of the *Philippine Star*, and I quote:

Computerization won't guarantee an end to poll cheating but neither has the manual electoral process ever guaranteed protection from poll fraud. What computerization can guarantee, without question, is efficiency and speed. What it can guarantee is that come election time, the results—or at least the choice of the majority—can be known within a day. What it can guarantee is that the world will no longer look in amused amazement as Filipinos laboriously tabulate votes using chalk on blackboard.

Due to time constraints, it is no longer possible to automate the elections of all positions nationwide for it is no longer possible to print the ballots containing a different set of candidates for local positions for each of the 1,685 towns, cities and provinces throughout the country. But it will take less time to print ballots of the same style, and the ballots for the national positions of president, vice president, senators and party list representatives will be applicable to the entire country.

If we all put our acts together and banish a crippling fear of failure, I am optimistic that it is still possible to automate the elections, at least, of national positions nationwide.

If computerization is done on a pilot basis only in 17 highly urbanized cities to cover all national and local positions, the results will be inconclusive and there is greater possibility of trending as only the results in areas with the combined 5,962,845 registered voters or some 15% only of the country's registered 40 million voters will be canvassed using computers. The votes of 85% of the registered voters will be tabulated manually, which follows that in areas where canvassing will be done manually, the election results for president, vice president and senators may still be manipulated.

To achieve the purpose of the law, our amendment proposes that the Comelec be authorized to procure supplies, equipment, materials and services needed for the holding of elections by expedited public bidding, provided that the accredited political parties are duly notified. This is lifted from Article VII. In fact, Article VII gives the Comelec more authority.

Section 52 (h) of the Omnibus Election Code states that:

In addition to the powers and functions conferred upon it by the Constitution, the Commission shall have the exclusive charge of the enforcement and administration of all laws, relative to the conduct of elections for the purpose of ensuring free, orderly and honest elections, and shall:

x x x

(h) procure any supplies, equipment, materials or services needed for the holding of election by public bidding: *Provided*, That if it finds the requirement of public bidding impractical to observe, then by negotiation or sealed bids, and in both cases, the accredited parties shall be duly notified.

Mr. President, this is the time when the requirements of public bidding are, to a certain extent if we go through the whole process, and if we do not expedite it, impractical to observe. In view of the objection of some of our colleagues, we have limited ourselves to just spelling it out as expedited public bidding.

To assuage the fears of some that a nationwide computerization of elections may be a ploy that will eventually lead to the failure of elections next year, our amendment provides that if in spite of the exercise by Comelec of the authority to procure supplies, equipment, materials and services needed for the holding of the elections, it becomes evident by February 1998—by the end of February 1998—that the Comelec cannot fully implement the automated election system for national positions in the May 11, 1998 elections, the elections for both national and local positions shall be done manually.

Under our proposed amendment, therefore, the Comelec has until February next year to prepare and assess its capability to implement the nationwide computerization, or otherwise, it will have to go back to the manual system of counting and canvassing of votes.

Mr. President, my dear colleagues: The entire Filipino people have long deserved to have nationwide computerized elections, not just on a pilot test basis, but to be observed nationwide for all national positions. And all opportunities are given us today to vote for the nationwide implementation of the automated election system in the May 11, 1998 elections, at least for national positions.

Let us not fail our people, Mr. President.

Thank you.

The President. Would the sponsor like to respond?

Senator Santiago. I would like to avail of the privilege.

The President. In effect, is the sponsor accepting the proposed amendment?

Senator Santiago. No, Mr. President. Allowing for intervening interpellation, I would like to exercise the sponsor's privilege of closing the debate. That is to say, of delivering a summary of my own arguments in favor of the original amendment.

SUSPENSION OF SESSION

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

It was 4:39 p.m.

RESUMPTION OF SESSION

At 4:55 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized to make the appropriate manifestation or motion.

Senator Tatad. Mr. President, the parliamentary situation is as follows: The chairperson and sponsor has a proposed individual amendment to which the gentleman from Cebu is proposing an amendment. It has been suggested that the amendments be debated.

Under the *Rules*, Rule XXVII, Section 75, not more than 30 minutes may be consumed by each speaker on amendments.

I ask that the distinguished sponsor be recognized.

The President. I saw earlier that the Minority Leader wanted to speak.

Senator Tatad. He is yielding first to the chairperson.

The President. The sponsor then may proceed.

Senator Santiago. Mr. President, the understanding of the Committee is that there is a consensus in the Senate that we must pass the Automated Elections Systems bill. I have not heard a single senator opposing the bill per se. Thus, we can proceed on the premise that all of us are united in sponsoring or, at least, supporting the computerized elections bill.

What is problematic is whether we can start implementing computerization in 1998. For if we cannot, then we can implement it in the 2001 barangay elections or the 2001 presidential elections.

That is the only issue now. Should we craft a bill that will provide for implementation of the computerized elections in May 1998?

There is likewise no debate among our colleagues on whether we implement nationwide or on a pilot-test basis, the computerization considering a fallback provision in this bill stating in effect that under no circumstances should the May 1998 elections be cancelled, postponed or otherwise declared as a failure of elections simply on the ground that the Comelec might prove to be incapable of implementing the system in time for May 1998. So there will be no doubt, as far as this bill is concerned, that the May 1998 elections will proceed whether on an automated or on a manual basis.

Our main concern in supporting the proposal that this should be a pilot test instead of a comprehensive application of computerization is that when the system was first pilot-tested last year in the ARMM elections, the Senate technical working group filed a report that was not categorically in favor of computerization. The grounds for the Senate report are in fact reflected in the reports of the other two panels, namely, the Comelec and the House of Representatives.

Some of the deficiencies that were observed on site, personally, by the members of our Senate technical working group were as follows: In at least one case, in at least one precinct in the ARMM, the machine counted more votes than there were registered voters in the precinct. In other words, there was *dagdag*.

In another documented case in another precinct, the machine counted less votes than the number of ballots actually cast in that particular precinct. Plus, the technical working group formally submitted a report that in at least one precinct, no elections were held, that is to say, the voters did not appear and so, there was no election process in that particular precinct at all. And yet later on, in the provincial capitol, during the canvassing of votes for that province, certain votes from that precinct in which no elections were certifiably held were counted during the canvassing.

In other words, the point of the Technical Working Group was that the machine counted the votes from a ghost precinct.

Furthermore, although the manufacturer assured the Comelec that the machines could distinguish between genuine and fake ballots, the Technical Working Group entertained serious apprehensions about the veracity of that claim for it is admitted by the suppliers that the counting machines can count very fast if the ballots are pristine in nature. That is to say, if they are perfectly laid out; if there are no corrections on the ballot; if the ballots are not wrinkled; and if the ballots are not torn. If any of these indicia of use or of wear and tear are present, sometimes the machine would suffer a feed jam or a pick failure. In other words, it would refuse to continue counting.

Thus, hypothetically at the very least, but verified by our Technical Working Group in the field, it seems that the machine can count the fake ballots faster than the genuine ballots.

In any event, this is the reason the Senate panel submitted a minority opinion when the report of the Tripartite Oversight Committee was being finalized.

The majority opinion consisted of the opinion of the Comelec and of the House of Representatives.

With respect to the issue at hand, I propose to our colleagues that we must be prepared to answer to our national constituency the following question: Can we take moral responsibility for appropriating P1.2 billion of taxpayers' money in the light of the ongoing economic meltdown, which will come to a head next year, for an electoral experiment?

In other words, I am questioning the order of priorities of this Legislature as has been raised by our colleague only this afternoon.

On the other hand, if we are to spend P1.2 billion and implement this automated system for national level positions only without including local level positions, are we not making ourselves vulnerable to a constitutional attack in the Supreme Court?

This, of course, is a theoretical issue at the moment. But I—for one, as sponsor of this measure—am not prepared to defend it on the constitutional ground of equal protection should a test case be brought to the Supreme Court.

I am very keenly aware of the ruling of the Supreme Court initially brought to the attention on this Floor by one of our colleagues, that in the 1937 case of *People vs. Vera*, the Supreme Court ruled, "You should either implement a national project or program throughout the whole country or not at all. Otherwise, you are violating the equal protection clause."

If we are going to implement computerized elections on a comprehensive basis but limited only to national level positions, then the arguments in the *Vera* case will surface almost immediately.

Finally, my last argument is this: As I have stated, and as I will affirm now, I have no strong personal preference for either one of these two pilot test areas. I am simply guided by what the Comelec is telling the Senate in clear and unequivocal terms.

In Administrative Law, the agency tasked with the actual implementation or execution of a law is given primary jurisdiction over that issue.

Other members and other branches of government are required under the rule of primary jurisdiction to take full account and sympathetic consideration of statements emanating from the agency tasked with the actual implementation of the law passed by the Legislature.

In this case, the Comelec—not just Commissioner Fernando, who is present here and I understand she is simply articulating a belief pervasive in the Comelec as a whole—is telling us that it cannot implement computerization on national level positions throughout the country. It can only implement it in 17 HUCs. Apparently, there is a school of thought that argues that we must second guess the Comelec; that we must tell the Comelec what it can do and what it cannot do in practical terms.

Mr. President, I beg to differ on that standpoint. It goes against my training as a lawyer, particularly in Administrative Law. I was taught by former Chief Justice Irene Cortez, my professor in Administrative Law, that under the principle of primary jurisdiction, the agency tasked with the implementation of a law must be given full faith and credit in any deliberation on the measure involved.

If the Comelec is saying it cannot implement computerization on a nationwide basis, who are we to say, what is our expertise in

commanding the Comelec to go ahead anyway? That is the first point.

The second point is: Can we go to *Plaza Miranda* and explain to the people that we have set aside P1.2 billion for a legislative electoral experiment where we can only conduct this on an experimental basis? Otherwise, we run afoul of constitutional law. I, for one, am certainly not prepared to make that defense before public opinion.

Finally, please allow me to emphasize.

Pointing out the loopholes, the deficiencies and the possible dangers of a computerized election system is not the same, it is not tantamount, it is not equal to defending election fraud. I hope that those on the other side of the debate—I am not referring to anybody in the session hall but to Philippine society in general—can take full consideration of the fact that computerization is a moral obligation. We should not rush where there is no need to rush.

Mr. President, I would like to know why is there such a need to appropriate P1.2 billion when there is only six months left before the appropriation and the actual disbursement of those funds, when our country is clearly reeling from an economic whirlwind? Why are we rushing to spend P1.2 billion?

I should be the first to argue in favor of computerization if it were a 100 percent guarantee of a clean and honest election because I have always asserted that since 1992, I won in the voting but I lost in the counting. I, of all the 24 senators, have the highest level of personal interest in clean and honest election. I challenge anybody to prove that he can have a higher level of personal interest in this matter.

If I am calling the attention of our colleagues to the possible deficiencies of a computerized elections on the proposed pilot test basis, it is simply because I feel, and I believe as a matter of commitment, that it is incumbent on us, as senators, with a nationwide view to fully acquaint our people with both the merits and the demerits of a system before we foist it on them at a cost of P1.2 billion. We are about to tackle the General Appropriations Act. We will have to recast that entire three-inch thick volume just to make sure that we are able to appropriate P1.2 billion.

We quibble and quarrel over P100,000, P500,000 or an appropriation of P1 million or P2 million. Now we are being asked this afternoon to just appropriate P1.2 billion. Even only for that, I think we should fully debate this before we come to a division of the House.

Thank you, Mr. President.

Senator Fernan. Mr. President.

The President. The gentleman from Cebu is recognized.

Senator Fernan. Mr. President, will the distinguished sponsor yield to a few questions?

Senator Santiago. Yes, Mr. President.

Senator Fernan. Mr. President, when the distinguished sponsor mentioned our rushing into the matter of computerization, is it not a fact that this matter of computerization was among the proposals of Comelec since 1996? I recall it quite vividly because I used to chair the Committee on Constitutional Amendments and Revision of Codes and Laws.

Senator Santiago. That is correct, Mr. President. But all of these must be placed now in the perspective of the final and official report of the Tripartite Oversight Committee created by law to supervise and monitor the computerized elections in 1996 in the ARMM area.

Senator Fernan. So, would the sponsor consider a period of two years as rushing into it?

Senator Santiago. No, Mr. President. What I am saying is, the law is very clear. It said, "let us pilot test computerized election in the ARMM."

The ARMM elections were held in September 1996. And accordingly, the law said, "the tripartite oversight committee must submit its report not later than 90 days after election day." Meaning to say, December 1996.

The Senate panel submitted its report in December 1996, thus meeting the deadline. The Comelec submitted its report in May 1997. The House of Representatives submitted its report in August 1997. That is the reason the Committee was unfairly charged with delay by people who are not exactly famous for their political literacy. If they had only bothered to read the Tripartite Oversight Committee report, they would have discovered that if there is any delay, it was caused by the delay in the filing of the report by the House of Representatives. It filed its report only in August 1997.

It would therefore have been illegal for the Senate Committee to have filed its own committee report before August 1997. We could not possibly have made a committee report or made any recommendation to the Senate until we had perused the House of Representatives' report. We were compelled by law to do that.

That is why we were able to make our report only, I think,

October. What I am saying is that from October to May 1998 is too compressed a time for Comelec to be given full freedom and liberty to fully implement the computerized system according to the expectations of the Filipino electorate.

Senator Fernan. Mr. President, was there enough time to study this proposal carefully?

Senator Santiago. To study, yes; but implementation, costing P1.2 billion is something else, especially in the light of the fact that the Comelec has told us repeatedly that it cannot implement it nationwide.

My dilemma is: Why is there an insistence that we should override and overrule the Comelec, when it is telling us that it cannot do it? I certainly will not be going to tell the Comelec it can or it cannot do something over an aspect of human activity which falls within its province. It cannot tell me what to do or not to do with respect to legislation, and I return the courtesy by giving it full discretion on deciding what to do or not to do with respect to electoral implementation.

Senator Fernan. The information received by this representation, Mr. President, is that the Comelec is divided on this matter—whether there is still time.

I talked to Chairman Bernardo Pardo and also Commissioner Teresita Flores. Both of them signified that for as long as there is a "safety-valve" or an "escape clause" that will allow them to determine, not later than February, whether they could still go through with it, they are willing to undertake this project.

But, I guess, there is no unanimity in the Comelec, and that is to be expected in a collective body, Mr. President.

Senator Santiago. The argument is, we should go ahead and pass the bill, providing for nationwide implementation, because, anyway, there is a catchall provision which I completely support. In fact, that is part of my own amendment for a manual system of election.

However, we have ignored the capability of the Comelec to prepare for two systems simultaneously. Let us say, the election period will begin February next year. Therefore that should be the deadline of the Comelec for deciding whether or not it can implement computerization in the May elections, unless we postpone the elections, according to my learned neighbor here.

My great fear is that we might be walking into a trap laid by the administration, so that it can declare a failure of elections.

Suppose the Comelec says, "In February 1998, we no longer

have the capability to computerize. So we shall now apply the 'fail-safe' or the 'catchall' provision and move to manual system.

But suppose that between February and May, the Comelec eventually finds out that there is no time to implement even a manual system, that would give the administration reason to declare a failure of elections.

Senator Fernan. I understand, Mr. President, that Commissioner Flores of the Comelec submitted her report to Congress in December 1996 yet. That is with respect to computerization, among others.

The President. From this vantage point, I think the issue has been joined. The sponsor says that the Comelec officials have made an official statement to her that they are not in a position to implement. The gentleman from Cebu mentions that there is a division in the Comelec citing, at least, two members of the Comelec.

I think that is the issue that has to be resolved. Because if we are to go on that basis, the admission of a division in the Comelec and citing only two, I think, cannot overrule the finding of the sponsor that the official position of the Comelec as a body is that it cannot implement.

Senator Santiago. Mr. President, I have just received this written note from Commissioner Fernando who, as we know, is within the premises. It states:

The entire Comelec has only one position, and that position is in favor of the 17 HUCs. What Chairman Pardo and Commissioner Flores said is that Comelec can engage in shortcuts on certain bidding procedures. But even laying the bidding procedure aside, other activities, other phases of the election system have not been considered, such as the bidding of supplies, the printing process, the verification process, and the shipping process.

So, what Chairman Pardo and Commissioner Flores were dealing with in their casual comments was simply the bidding procedure. They did not even take into consideration these other phases of the electoral process.

Senator Fernan. Mr. President, to my knowledge, the Comelec went farther than that. The Comelec, represented by Commissioner Flores, even helped draft this particular amendment that I am now proposing. This was worked on some time November 14, 1997 by a technical working group of the Comelec, the Namfrel and some of our staff. We also extended invitation to the staff of our distinguished chairperson but, unfortunately, they were not there.

So, they came up with this particular draft. They never manifested, all along, that it would be impossible or not feasible for them to come up with a nationwide computerization. This came out only recently that it should be just about 17 highly urbanized cities, even to the extent of excluding the ARMM when they already tried computerization during the last elections. It will now be retrogression for the ARMM if they will be returning to manualized elections if we adopt this proposal.

Mr. President, when the distinguished chairperson mentioned that it will need an appropriation of P1.2 billion, that is not actually the figure that is needed to be appropriated because P800 million has already been allocated for computerization. That was allocated way back in the previous budget. What we need, if we come up with computerization now as per our proposal, is only an additional P400 million.

To me, any amount for that matter is worth spending if it will purify our electoral process and minimize irregularities.

With respect to the constitutional attack on this proposal, I believe, if I were sitting in the Supreme Court now—which I am not—a bill providing for computerization in only 17 highly urbanized cities would be more vulnerable to constitutional attack than computerization nationwide for national positions. Because then, as far as the 17 highly urbanized cities are concerned, they will probably say, "Why discriminate in favor of the urbanized places as against those which are not highly urbanized?"

That is probably an argument. But for every legislation that is to be adopted, there is always the risk of its being assailed constitutionally for people who may have evil motives. That is for us to defend ourselves and for us to help sustain the validity of a particular law, Mr. President.

Now, in the matter of the acquisition of the counting machines. I have information from my distinguished friend, Senator Magsaysay, that purchase is not the only way of procuring the machines. There are other ways of procuring, including lease or otherwise. Therefore, we should not proceed only on the basis of just acquisition by purchase, but acquisition by other means. It can be by lease or other arrangements. This matter should also be taken into consideration.

In the matter of what happened in the ARMM elections, may we ask from the distinguished Senator if she obtained information on the detailed evaluation and recommendation on the results of the ARMM elections?

Senator Santiago. Excuse me, Mr. President.

Senator Fernan. My question is: Did the distinguished

chairperson obtain a report of the detailed evaluation and recommendation of the results of the ARMM elections.

Senator Santiago. By whom, Mr. President?

Senator Fernan. By Namfrel and other similar agencies.

Senator Santiago. What I obtained was the report of the technical working group of the Senate panel. Thereafter, I was also able to obtain a similar report from the technical working groups of the two other panels, the Comelec and the House, because these were the three panels that the law compelled me as Vice Chair of the Oversight Committee to take into account.

Senator Fernan. The report here, citing newspaper reports: "Exhortations of success have been profused as the newspapers document the results of the ARMM elections. Various sectors expressed satisfaction over the concluded exercise".

"Even the President of the Republic observed with pleasure the apparently successful piloting of the computerization project, remarking that this entire system under the law will be spread throughout the Philippines to prepare us for our future electoral exercise since the system proved that computerization can be respected, operated efficiently, transparently, and honestly".

Now, an amusing assessment was reached by some in the print media. "That the elections was boring", according to the *Philippine Star*. It was "dull" in Ka Kiko Evangelista; "a non-event of the decade", according to Teddy Locsin, Jr. due to lack of the traditional trail of blood coloring the exercise.

Headlines gushed with praise over what is now considered the most peaceful elections in the region ever, according to the *Philippine Star*; with one daily, *Manila Times*, even commenting that it is the most peaceful in the entire Philippines yet.

That, in effect, was the report on how they assessed the elections in the Autonomous Region of Muslim Mindanao.

Senator Santiago. Mr. President, please allow me to make of record that the law providing for computerized elections in the ARMM area provided for a Tripartite Oversight Committee to actually monitor—not just go by hearsay or off-the-cuff, casual or anecdotal comments—computerization. And this is the basis for the actual presence in the area of the members of the Senate technical working group and the respective technical working groups of the House and the Comelec.

I read these accounts in the media but I relied on the report of the Senate technical working group which differed from the

greater majority in that it went very deeply into the electoral process not only in terms of interviews but also in terms of actual-on-the-field observations.

Suffice it for me, at this point, to refer our colleagues to the official report of the Tripartite Oversight Committee. I believe that this report was furnished every Senator during our last caucus on this topic.

But may I please be allowed to say, Mr. President, that the gentleman has very wisely observed that the issue has been joined on a question of fact. The only issue that needs to be resolved at this time is: Is the Comelec ready to implement computerization on the national level nationwide for the May 1998 election?

Apparently, the gentleman and I are talking of two different sources, or if they are the same sources, we have apparently been translating them differently.

If our colleagues are so inclined, I am inclined to file a motion to suspend so that I can request the chairperson of the Comelec to submit a resolution on this matter by the Comelec *en banc* for the guidance of the Senate before we continue the debate tomorrow.

SUSPENSION OF SESSION

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

It was 5:26 p.m.

RESUMPTION OF SESSION

At 5:58 p.m., the session was resumed.

The President. The session is resumed.

Senator Santiago. Mr. President, I beg for permission to enter into the *Record* this document that has just been handed to me by the Comelec Commissioner present in the premises. It is an excerpt from the minutes of the regular *en banc* meeting of the Comelec held on October 16, 1997. Present were all the Commissioners, namely: Chairman Pardo, Commissioners Maambong, Fernando, Gorospe, Desamito, Flores and Guiani. It reads as follows:

In the matter of the Memorandum dated 11 October 1997 of Attys. Mamasapumod M. Aguam, Deputy Executive Director for Administration, Ernesto S. Herrera, Director IV, Finance Services Department, Romeo C. Cacanindin, Director IV, Adminis-

trative Services Department, Dir. Ester L. Villaflor-Roxas, Election Records and Statistics Department & OIC-MIS, and Ms. Amor M. Balbon, Property Division, ASD, re Time Schedule and Budgetary Implication for the implementation of the Automated Counting Machine in relation to House Bill No. 9397 which authorizes the Commission on Elections to use the Automated Election System in the May 11, 1998 National Elections, recommending that due to time constraint, the possibility of implementing the automated counting system in the 1998 National and Local elections is no longer feasible—repeat, is no longer feasible—taking into account the following pre-election preparation activities/processes:

1. Law - when it will be passed
2. Choice of machine (bidding and Award)
3. Drafting of resolution
4. Manufacture of machines
5. Delivery/Testing/Acceptance of the machines
6. Training
7. Demo
8. Procurement of Ballot Paper
9. Printing of Marksense Ballots
10. Inspection/selection of Central Counting
11. Installation of machines
12. Testing/Sealing of machines

Considering, however, the recommendation of Comm. Regalado E. Maambong for the possible use of the available 43 AIS machines (used in the 1995 ARMM elections)—I believe this is a typographical error. It should state 1996 ARMM elections—for substantial compliance in case the law is passed.

RESOLVED to direct the Senior Staff to submit its study and recommendation on the possible use of the available 43 units of AIS Optical Scanning Machines (used in the September 1996 ARMM elections) in the May 1998 elections, to substantially comply with the proposed bill in Congress in the event it becomes a law.

RESOLVED, moreover, to designate Atty. Jose M. Tolentino, Jr. as one of the members of the Technical Staff for the Commission's Modernization Project, to assist in the study aforesaid.

Let the Executive Director implement this resolution. I have previously manifested that it would be desirable for the Comelec *en banc* to furnish a resolution to the Senate stating in writing the official collective position of the Comelec on whether or not it has the capability to implement computerization on the basis of national level positions in time for next year's elections.

However, it appears that such a resolution has already been passed as of October 16, 1997.

Senator Fernan. Mr. President.

The President. The gentleman from Cebu is recognized.

Senator Fernan. By way of comment on the resolution dated October 16, 1997. A member of the media showed me that particular resolution—because officially, I have not received any copy—and I notice that when they say there is not enough time, the Comelec refers to the holding of national and local elections for the entire nation. In other words, from president down to the lowest municipal councilor. But it does not apply, it does not say, it does not verify that when the elections is just for the national offices, president, vice president, and senators, that there is not enough time if done nationwide. It should be understood in that context, Mr. President.

Senator Santiago. That is certainly a valid point, and I will react to that by requesting the Comelec to give us a written resolution on its sentiments with respect to the proposed amendment of the gentleman. It would be a more specific topic than the general topic of comprehensive computerization. But I imagine that the earliest that we can obtain such a written confirmation of the official Comelec position would be tomorrow, because the commissioners are in Baguio City and the commissioner present in the premises will have to contact them and get their opinions in writing by fax.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2314

Senator Tatad. Mr. President, to allow the members to study this issue in greater depth, I move to suspend consideration of Senate Bill No. 2314.

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

ADJOURNMENT OF SESSION

Senator Tatad. Mr. President, I move to adjourn the session until three o'clock tomorrow afternoon.

The President. The session is adjourned until three o'clock tomorrow afternoon, if there is no objection. *[There was none.]*

It was 6:04 p.m.

DEC. 1, 1997

results of the elections shall be fast, accurate, free from trending and reflective of the genuine will of the people not only of 15 percent of the registered voters?

We are told, Mr. President, that only a miracle can save the election computerization bill. At this time, it matters not to me that my proposal which was cosponsored by 13 other senators wins or is defeated as long as we can face the Filipino people and say that at the time when our people can only hope for a miracle to save this bill, we have done the best we could under the circumstances and given the time constraints.

Thank you very much, Mr. President.

The Presiding Officer [Sen. Mercado]. The Majority Leader is recognized.

MOTION OF SENATOR TATAD
(Referral of Senator Fernan's Remarks to the
Ethics and Privileges Committee)

Senator Tatad. Mr. President, I move that the remarks of the distinguished gentleman from Cebu be referred to the Committee on Ethics and Privileges.

The Presiding Officer [Sen. Mercado]. Is there any objection? [Silence] There being none, the motion is approved.

SUSPENSION OF SESSION

Senator Tatad. May I ask for a one-minute suspension of the session, Mr. President.

The Presiding Officer [Sen. Mercado]. Is there any objection? [Silence] There being none, the session is suspended for one minute.

It was 5:12 p.m.

RESUMPTION OF SESSION

At 5:16 p.m., the session was resumed.

The Presiding Officer [Sen. Mercado]. The session is resumed.

BILL ON SECOND READING
S. No. 2314 — Automated Election Act of 1998
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2314 as reported out under

Committee Report No. 609.

The Presiding Officer [Sen. Mercado]. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 2314 is now in order.

We are still in the period of amendments. I ask that the distinguished sponsor be recognized, and with her, the distinguished vice chairman of the committee, the gentleman from Cebu.

The Presiding Officer [Sen. Mercado]. Senators Santiago and Fernan are recognized.

Senator Santiago. Mr. President, I would like to make it of record that Tuesday last week, the Legislative Pages distributed to every senator a copy of the Comelec resolution recently dated expressing the declaration that the Comelec finds it impossible to computerize nationwide the May 1998 elections.

If there is any of our colleagues present in the hall who would like a copy of that resolution, I shall be happy to have my copy reproduced for his perusal. This is how events have developed.

In addition, we have a new Comelec proposal which I read during the interpellation of my personal privilege speech just a few minutes ago.

So, in effect, we have the original bill providing for three regions. I have proposed the Santiago amendment providing for 17 HUCs; there is a proposed Fernan amendment providing for nationwide computerization but only for national level positions. We have also an informal proposal from the Comelec presented only this afternoon that discretion should be given to the Comelec to determine in what areas computerization shall be implemented for the May 1998 elections.

I will wait for the pleasure of our colleagues on how to dispose of this most recent Comelec proposal.

Senator Gonzales. Mr. President.

The Presiding Officer [Sen. Mercado]. The Minority Leader is recognized.

POINT OF ORDER
(All Amendments Be In Accordance
with Senate Rules)

Senator Gonzales. Precisely I am raising my point of order. There are so many proposals here, and proposals for

amendment embodied in privilege speeches. How could that be done, Mr. President?

All amendments should be made in accordance with the *Rules* of this Body.

SUSPENSION OF SESSION

Senator Tatad. Mr. President, may I ask for a one-minute suspension of the session.

The Presiding Officer [Sen. Mercado]. The session is suspended, if there is no objection. [*There was none.*]

It was 5:18 p.m.

RESUMPTION OF SESSION

At 5:21 p.m., the session was resumed.

The Presiding Officer [Sen. Mercado]. The session is resumed.

Senator Roco. Just an inquiry, Mr. President.

The Presiding Officer [Sen. Mercado]. Senator Roco is recognized.

PARLIAMENTARY INQUIRY OF SENATOR ROCO (On the Status of the Santiago Amendment Should He vote on the Fernan Amendment)

Senator Roco. Just an inquiry in terms of the parliamentary situation, Mr. President. As I understand it, Senator Fernan has an amendment to the proposed amendment of Senator Santiago. who, herself, submitted an individual amendment to her own committee report. Is this correct, Mr. President?

The Presiding Officer [Sen. Mercado]. Yes.

Senator Roco. So, if we vote in favor of Senator Fernan's amendment, what happens to Senator Santiago's amendment? It is disregarded. It is considered disapproved. Is this correct, Mr. President?

The Presiding Officer [Sen. Mercado]. Yes.

Senator Roco. So that the bill will be as amended by the Fernan amendment. Is that correct?

The Presiding Officer [Sen. Mercado]. That is correct.

Senator Roco. If that is so, Mr. President, can there be subsequent amendments to the Fernan amendment? We are only entitled to two amendments, and the Fernan amendment is already the second amendment, the way I understand it, at least on this issue.

Senator Tatad. Under the *Rules*, Mr. President, Section 81 of Rule XXIX, not more than one amendment to the original amendment shall be considered.

The Presiding Officer [Sen. Mercado]. The Grandfather Rule. Anyway, the proposed amendment that was mentioned was merely for information, the Comelec proposal.

Senator Tatad. Yes, Mr. President. No subsequent amendment has been proposed.

The parliamentary situation is that the sponsor has proposed an amendment and the gentleman from Cebu has proposed to amend that proposed amendment and the sponsor has declined the proposed amendment. The gentleman from Cebu has spoken in favor of the amendment and I understand the distinguished Minority Leader would like to speak against the proposed Fernan amendment.

Senator Roco. Mr. President, precisely, what we are inquiring on is: What if the Fernan amendment is approved?

Senator Tatad. Because this is a proposed amendment to the sponsor's amendment, therefore, it is the amendment that will enter into the *Record*, the amendment that has been approved. It becomes part of the bill.

Senator Roco. That is correct, Mr. President. What I am asking is thereafter, because they are complex propositions. They are not simple propositions. Our vote will involve a number of ideas.

Assuming it is approved and it becomes part and parcel of the bill, can that portion of the bill, as amended by the Fernan proposal, still be further amended?

Senator Tatad. Before they are amended?

Senator Roco. No. We begin again the count of one. It is folded now into the bill as amended by the Fernan amendment.

Senator Tatad. Yes, Mr. President.

Senator Roco. Can the bill, as amended, now be subject to another two amendments? Normally, the way we have been going, we have been amending portions and then we do not

follow the pages. We go back and forth in our amendments and that seems to be the practice.

I am just asking because the Fernan amendment is fossilized now to this national. Maybe some people may want to modify it later on because, obviously, we cannot propose a third amendment for now. That is all I am saying, Mr. President.

Senator Tatad. Mr. President, I have been in consultation with the Minority Leader just to get an indication of how they had been doing this in the past. According to the experience, we produce a clean copy, and with the consent of the House, we go over the approved amendments, and if there is any need to introduce further amendments, we normally allow these amendments to be introduced.

Senator Roco. That is the practice, Mr. President. I was just wondering, because of the peculiar situation where the sponsor herself is submitting the individual amendment and where there is a whole mass of suggestions of Senator Fernan. So we will just proceed in accordance with our practice of having a clean copy.

Senator Tatad. Yes, Mr. President.

Senator Roco. Thank you, Mr. President.

Senator Tatad. May I ask that the distinguished Minority Leader be recognized.

The Presiding Officer [Sen. Mercado]. The Minority Leader, Senator Gonzales, is recognized.

**STATEMENT OF SENATOR GONZALES
(Against the Proposal of Senator Fernan)**

Senator Gonzales. Mr. President, I rise to speak against the amendment proposed by Senator Fernan to the amendment which was introduced by Senator Defensor Santiago, chairperson of the Committee.

The Fernan amendment, allow me to call it that, would in effect allow two kinds or two systems of election in the general elections of May 1998. First, an election of all the national officials of the Philippines on a nationwide basis under the automated system of election and an election of local officials through what has been called as the manualized system of election pursuant to the existing Election Code and other amendments thereto.

The second is a nationwide election of all national and local officials on the basis of the "manualized" system, if for good cause

the Comelec by February 1998 cannot hold a computerized election.

My objection thereto is that, I think under Resolution No. 2955 of the Comelec, promulgated on November 25, 1997, the constitutional body charged with the enforcement and administration of all laws pertaining to elections had already stated in a positive and definitive way that it is not in a position to implement an automated system of election for purposes of the May 11, 1998 elections because of the reasons stated therein.

Among the important reasons that had been mentioned by it are:

1. The simultaneous holding of two election systems that is automated and manual in the same political subdivision or unit borders on constitutional infirmity. This invites us to the constitutional issue that had been raised by Senator Enrile invoking the equal protection of the laws clause of the Constitution.

2. It would double, if not multiply, activities and resource requirements such as the use of: (1) two kinds of balloting systems; (2) two types of counting systems; (3) two sets of ballot boxes per precinct; (4) two sets of Board of Election Inspectors; (5) double budgetary requirements; and (6) additional manpower, et cetera.

It came out with this statement: "That the integrity and the credibility of the process will be compromised due to the shortage of Comelec regular personnel who, at the time, are thinly spread nationwide. The primary responsibility cannot be delegated to casuals and ordinary deputies because the Comelec itself was aware of the problems posed by the bill as it stands."

And even with a situation as contemplated in the Fernan amendment, the Comelec had recommended that the automated system of election be held only in 17 highly urbanized cities where both national and local officials will be elected on the basis of the automated system of election.

Mr. President, my particular vote here is guided exclusively by the capability of the Commission on Elections and no other. I will not consider the voice of other groups however important and influential they may be—be it the Church, be it Namfrel, be it media and others—who are not accountable to the people in the conduct of the elections.

Whatever be the results of the election laws that we are going to enact, if the Comelec says that it cannot implement it and we force them to do so, and then it fails, who will be blamed? "*Sinabi na namin sa inyo na hindi namin kayang i-implement ito, pero pinilit pa rin ninyo kami. Ito ngayon ang naging resulta.*"

I cannot take moral responsibility for that, Mr. President.

As I have said, to me, it is immaterial whether it is in the 17 highly urbanized cities or in some other places, for as long as Comelec says, "We can implement the bill you are going to pass in these areas." That is well and good for me. But I will not force it to do something which it says it is not in a position to implement.

The second is, if we approve this amendment, it will lead to a question of the quality of laws that we are passing here. I think that in enacting a law, we try to study everything and then decide by ourselves what we want to be done, who is to do it, how it is to be done. But we cannot create alternatives and leave it to an administrative body like the Comelec to decide which of these alternative measures it is going to adopt. That is not legislation. That is a coward's retreat from our own responsibility.

As pointed out, there will be two preparations because there will be two systems of election. Therefore, there will be no focus on the preparations and efforts of the Comelec towards a particular system of election. The Fernan amendment will, in fact, create this situation.

Comelec has until February to decide. Meanwhile, there are many pre-electoral acts that have to be performed. There are forms to be created, ballot boxes to be ordered, and ballots to be printed, machines to be acquired, et cetera. They will have to prepare for these two systems of election. If it decides to adopt one, then how about all the preparations, the ballots, election paraphernalia, the materials and the expenses made that correspond to the other system? That is money in the drain.

What happens, Mr. President, is, because of these pressure groups—whether it be the Church, Namfrel or media—Comelec may be stampeded against its better judgment. It may be forced to agree to computerized polls for national offices. Not being in a position to do so, it fails in the conduct of election.

Mr. President, it is not very difficult to think that there might be a failure of elections. A failure of election, especially in a presidential election such as what we are going to have in 1998, is fraught with danger. The consequences are very frightening.

Should that eventuality occur, Mr. President, then we, who will pass this bill, deserve to be hanged at the nearest lamppost since there are no trees tall enough in our denuded forests.

Mr. President, the argument against holding an election in 17 highly urbanized cities is that it will provide for trending. Those who know elections know that trending is inherent in any election. Regardless of the kind or system of election, there will always be trending.

Each candidate, each political party and each political movement has its own ways of gathering the election results in an unofficial manner. Worse, Namfrel itself, for example, or even the Comelec may publish in the newspaper partial results or unofficial tallies, and that develops trending.

We cannot avoid trending in whatever kind or system of election that we are going to use. We are not politicians worth our salt, if we do not have people who will gather results for us or who can access to the tabulations and tallies made by Comelec officials and other groups.

In the United States, Mr. President, it is worse than trending because sometimes the elections in the eastern part and in the midwest are already over, and the elections in the Pacific side are rendered irrelevant. For example, in the last elections, the election in the State of California had no meaning at all. Because by the time that they are still voting, the results of the election had already been known. Why? Because in other states, in the East and Mid-West, they know already the results of the election.

That is why trending ought not to be given as a reason against holding of the election in 17 highly urbanized cities which, according to Comelec, is the only kind of implementation that it can do. And it is still subject to another condition that we enact it before the end of December.

So, let us try to be reasonable on this particular matter. Let us be realistic. I, for one, am not satisfied with this kind of law. I am not satisfied with the system. I am not convinced that the machine that we are going to use is really the best available with modern technologies around.

In fact, my interpellation of the distinguished sponsor has yielded the very point that this bill has been tailored-fit for a particular machine. I would rather have a complete computerization of the election from the precinct level direct to the municipal level, then the provincial level and up to a sort of a national counting system that would, in effect, canvass the results of the election of senators, the president and the vice president. The results of the canvass will then be the basis for the Comelec and to Congress to proclaim the results of the election. But it will be a ministerial duty on their part.

In short, we should revise our election law, not a part of it, the whole process of election in order that it can take advantage of the advances of technology on this particular matter. As it is, it is our laws, it is our Constitution that prevents a speedy determination of the results of the election.

This is no exaggeration. Let us say that we have already reached the canvass for the results of the senatorial election,

the President and the Vice President. Our legislative calendar shows that we are going to adjourn for a recess on May 6, 1998, and we are to resume our session on June 2. That is practically one month. So, there can be no canvass; there can be no proclamation because it is only by June 2, 1998 where Congress will meet in a joint session for the purpose of canvassing the results of the election for president and vice president.

No machine can shorten that because that is the provision of the Constitution. The Constitution itself says that the Congress in the canvass shall determine its rules of procedure.

We have been members of the Eighth Congress and we know how long the proclamation took, especially in this kind of election law that says that Congress shall meet in joint session to canvass the results of the presidential elections and proclaim its results.

But it is not as bare as that. The Rules of Procedure are stricter. I have a copy of the Rules of Procedure that we had adopted then which are stricter than whatever election law that we can look into.

So, this is a built-in delay in the canvass and proclamation of the president and the vice president. If we really want to modernize our electoral system, we must not shorten merely the period of counting. The whole electoral process should be changed.

Automated counting of ballots and canvassing of returns do not constitute the entire process. We must look at elections as one inseparable process consisting of many parts and modernize the entire system, and that is the only way by which we can really attain a clean, honest, orderly and credible election.

Thank you, Mr. President.

Senator Roco. Mr. President.

The Presiding Officer [Sen. Mercado]. Senator Roco is recognized.

**STATEMENT OF SENATOR ROCO
(In favor of the Fernan Amendment)**

Senator Roco. Mr. President, may we speak in favor of the amendment.

First, I beg permission and pardon of my distinguished Minority Leader for taking issue with him on this. I do realize he has always been a liberal at heart and he will understand the position of independent minds which is what is expected of a member of the Senate.

So, when there were references to pressure groups, there may be pressure groups. There have always been pressure groups, but my high respect for my colleagues compels me to believe that despite the existence of pressure groups, each and every member of this Chamber will act in accordance with his/her conscience and his/her best judgment whether legal, management or whatever else motivates him/her to vote one way or the other. But I suggest, Mr. President, that we owe respect to all our members and I am sure it was not the intention of my distinguished leader to suggest differently.

The pressure groups can come and go. The Senate will stay.

What is clear to me, however, is that today, there seems to be an overwhelming consensus wherever we go that the present system is full of fraud and that is the challenge. We must get rid of the fraud in the present system. If we just reject this computerization, then we fall into the present where there is fraud. And to me, that is a higher irresponsibility if we do not try, at least, to cure and obviate, and avoid that fraud. That is the responsibility that falls on us.

In what tree and what high post will we hang the fraudulently elected president or those members of chambers who do not try to cure that fraud? There are no longer any trees, according to my distinguished leader, high enough to hang these people. Where will we hang those people who commit fraud and do not do anything about it?

The objection, Mr. President, is the Comelec cannot do so, cannot implement. I find it difficult to accept such a proposition. A creature of the Constitution, mandated with the highest competence and primary jurisdiction; mandated by law and the Constitution to hold elections, it says it cannot do so?

Maybe we were a little at fault. Maybe there was delay but in the meantime when the delay was going on, did the officials prepare alternatively? These are not sequential things. We can do three things at the same time. We do not have to do them one after the other.

Why did they not help? Why did they not plan for that alternative? And then they say, they cannot do so? And we will be tied in our hands to try to create reforms because they cannot do so? And yet they did not do anything all through the period.

If they did something all through the period, then they should be ready now. They gave us a memorandum last week. There were eight or nine steps. Whether eight or nine steps, ordering ballot papers, that can be done simultaneously. Manual preparation, that could have been done simultaneously,

two years ago. It should be a matter now of triggering individuals; triggering persons to implement them.

I would rather believe, Mr. President, that the Comelec has all these contingency plans. The officials should have. They saw it coming. They could have plotted computerization even without the law because the law talks only of certain modes of procuring. In fact, the bill talks of procuring, I do not know why they used "procuring." These are procuring of machines.

The Comelec could have been ready. I suspect it is still ready but there is a dissonance. There is a human frailty involved. When things are tough we do not want to go against the current.

I say that the next president, the next elections, the next millennium cannot be ushered in by leaders elected through fraud and that is the challenge that the Comelec must face up to. It is a matter of management systems. There are programs galore on management systems. Things do not happen sequentially; things can happen parallel to each other.

We are told that, in any event, the Constitution speaks of 30 days. Of course, the Constitution should prevail. But how does that argue against computerization so that on the second or third day or even by the end of the first week there is a rational, probable indication that can be believed by the Republic of the Philippines, that the choice of the people and the sovereign will has been manifest?

Even under the present system, the 30 days will occur but there will still be counting. We are only saying that the election process from casting a ballot to the municipal canvass may be hastened through the computerization.

So the 30 days argument, Mr. President, that it will be Congress anyway which will proclaim, does not argue to me against computerization.

We are told that there is a constitutional infirmity. Well and good. Maybe there is a constitutional infirmity. We are one Congress that will be probably known for creating bills with so much infirmity. But the constitutional infirmity, Mr. President, when they distinguish that there are less constitutional infirmities when we computerize in 17 highly urbanized cities, and that is less constitutionally infirm than the national elections being suggested by Senator Fernan, I do not see how reason calibrates this constitutional infirmity. If there is constitutional infirmity, it applies to both the difference, the subjective judgment involved in trying to show differences between the constitutional infirmity. I can even appreciate.

Mr. President, we must therefore seek the judgment of this

Body; that is how the Constitution goes. If we are foolish or if we are wise, the Supreme Court, as the arbiter and as the final judge of official acts on whether they were acted upon with discretion, can still say what it wants to say.

What we can do, therefore, is have the normal escape clauses in a bill. After all, if we have the separability clause which is normal, we fall back to the manual and the manual, the present system, is what is being defended by those opposed to the computerization. How can they argue against it? If it fails, we are where they want us to be. So what is there to lose? We are where we want to be. For those who are opposed to the computerization, let us at least give it a chance.

We are told P1.2 billion and it is a waste of money. Mr. President, everybody, the newspapers talked of 15 percent SOP; the newspapers speak of standard operating procedure, and on the budget of P40 billion of the Public Works, 15 percent will be what? The P4.5 billion—no one seems to be alarmed. The CDF is P2.2 billion—no one seems to be alarmed. All of a sudden, P1.2 billion for computerization is alarming?

Where is the perspective, Mr. President?

Mr. President, I hope we are considered in good faith and good judgment, and best effort in any event to achieve best judgment in this regard. We have kept our peace because it would have been longer and more tedious to be interpellating as there was very little time. It seemed better to just wait for the vote. Last Tuesday, I think, we were waiting for the vote at four o'clock. But that was not meant to be. So why cry over spilt milk?

But still, we cannot fragment the national will, and if we must have computerization, let it be for all national officials. Let the national will be seen. At least, to me—and my opinion may be disregarded later on by the Supreme Court—there is a rational standard, there is a differentiation between nationally elected and those who are locally elected.

Mr. President, I came from the House of Representatives. When we ran, the first morning after elections on a local basis, we had the results. But the national cannot be done. And that is why there is a crying need to computerize.

I suspect that many fear the computer and we have a right, we have a duty even to be apprehensive. But many fear the computerized or the automated system because it is new. Everytime something new is proposed, there is a normal fear and apprehension. Everytime there is a shift in technology, there is a normal fear and apprehension. I even heard once the objection: Can the machine distinguish paper from

fraudulent paper, if there is a ballot?

Mr. President, technically, the machine, in fact, is the best chance of recognizing paper. Our credit card is plastic. That small black strip makes that credit card recognizable as owned by the Presiding Officer or by Senator Magsaysay. Paper in the computer in the technological age can be recognized and it talks to the machines.

Can it be subject to fraud? Of course! All systems can be subject to fraud because when people, instead of trying to obey the law, keep looking for ways of disobeying or getting out of the law, then there will always be the possibility of fraud.

But will fear of fraud paralyze us?

Mr. President, I would rather dare to have a new system and fail than accept now a system that is accepted by all as fraudulent. The hope, the chance, is worth taking.

Thank you, Mr. President.

The Presiding Officer [Sen. Mercado]. Senator Romulo is recognized.

Senator Romulo. Mr. President, are we ready to vote now?

The Presiding Officer [Sen. Mercado]. If there are no other speeches for or against the amendment...

Senator Romulo. Mr. President, the reason I am asking that is, before we vote, may the Chair or the Majority Leader just restate the parliamentary situation and thereafter read to us the amendment that we are voting on?

Thank you.

The Presiding Officer [Sen. Mercado]. That would be fine. If there are no other speeches, the Majority Leader may do so.

Senator Tatad. I understand Senator Fernan would like to make a few additional remarks.

Senator Fernan. No, no more remarks.

Senator Tatad. I am sorry. We can ask the sponsor to restate the amendment and the senator from Cebu to restate his proposed amendment to the amendment.

The Presiding Officer [Sen. Mercado]. Please proceed.

FERNAN-SANTIAGO AMENDMENT

Senator Fernan. The amendment proposed by this representation refers to Section 3 of Senate Bill No. 2314.

Section 3 reads as follows: "*SEC. 3. Authority to Use an Automated Election System.* - To carry out the above-stated policy, the Commission on Elections, here referred to as the Commission, is hereby authorized to use an automated election system, here referred to as the System, for the process of counting of votes and canvassing/consolidation of results of the national and local elections, and for the process of voting in subsequent electoral exercises: *Provided*, That for the MAY 11, 1998 elections, the system shall be applicable only FOR THE POSITIONS OF PRESIDENT, VICE PRESIDENT, SENATORS AND PARTY-LIST REPRESENTATIVES."

The second paragraph of the same section, Mr. President, reads as follows:

"THE COMMISSION SHALL IMPLEMENT THE AUTOMATED ELECTION SYSTEM FOR THE POSITIONS OF PRESIDENT, VICE PRESIDENT, SENATORS AND PARTY-LIST REPRESENTATIVES IN ALL AREAS WITHIN THE COUNTRY FOR THE MAY 11, 1998 ELECTIONS. TO ACHIEVE THE PURPOSE OF THIS ACT, THE COMMISSION IS AUTHORIZED TO PROCURE ANY SUPPLIES, EQUIPMENT, MATERIALS AND SERVICES NEEDED FOR THE HOLDING OF THE ELECTIONS BY AN EXPEDITED PROCESS OF PUBLIC BIDDING: *PROVIDED*, THAT THE ACCREDITED POLITICAL PARTIES ARE DULY NOTIFIED. IF IN SPITE OF THE EXERCISE OF THIS AUTHORITY IT BECOMES EVIDENT BY THE END OF FEBRUARY 1998 THAT THE COMMISSION CANNOT FULLY IMPLEMENT THE AUTOMATED ELECTION SYSTEM FOR NATIONAL POSITIONS IN THE MAY 11, 1998 ELECTIONS, THE ELECTIONS FOR BOTH NATIONAL AND LOCAL POSITIONS SHALL BE DONE MANUALLY."

That is the end of the amendment, Mr. President.

APPROVAL OF THE FERNAN AMENDMENT

The Presiding Officer [Sen. Mercado]. Those who are in favor of the Fernan amendment, please raise your right hand. *[Eleven members raised their right hands.]*

Those who are against, please do so. *[Six members raised their right hands.]*

With 11 affirmative votes, six negative votes, and no abstention, the amendment is approved.

SUSPENSION OF SESSION

Senator Tatad. Mr. President, may I ask for a five-minute suspension of the session.

The Presiding Officer [Sen. Mercado]. The session is suspended for five minutes, if there is no objection. *[There was none.]*

It was 6:02 p.m.

RESUMPTION OF SESSION

At 6:08 p.m., the session was resumed with the Senate President, presiding.

The President. The session is resumed.

Senator Tatad. Mr. President, I move that we go through the bill, page by page, for the individual amendments.

The President. Page 1. Page 2.

SUSPENSION OF SESSION

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

It was 6:09 p.m.

RESUMPTION OF SESSION

At 6:12 p.m., the session was resumed.

The President. The session is resumed. Senator Romulo is recognized.

Senator Romulo. Mr. President, we have just had one major amendment, and there are other major amendments that will be proposed to this bill. May I, therefore, ask that after all the individual amendments have been turned in, voted and accepted, we prepare a clean copy of the bill before we close the period of individual amendments.

The President. That is noted, and it shall be done.

The Chair also suggests that if there are major individual amendments other than the ones already distributed by Senator Gonzales, the same should be circulated in writing before we take them up on the floor because we have to study the implications of certain amendments.

I suggest that for today, we only take up the Gonzales amendments, and then have a revised version to already reflect the Fernan and the Gonzales amendments before we continue.

The Minority Leader is recognized.

Senator Gonzales. Thank you, Mr. President. May I now formally propose my amendment to Section 4 of the bill. It is quite a long one, that is why I put it in writing and have copies of the same distributed among members of this Body. But I realized later that probably our colleagues would need more time to go over it and study it, and I will just make the offer.

Amend Section 4 to read as follows:

Sec. 4. Features of the System. - The system shall utilize appropriate technology for voting, and electronic devices for counting of votes and canvassing of results. ITS MAIN FEATURES ARE SECURITY, RELIABILITY, ACCURACY, SPEED, EASE OF USE, MINIMUM HUMAN INTERVENTION, AND BUILT-IN AND ADEQUATE AUDIT/SECURITY/CONTROL MEASURES.

THE SYSTEM SHALL BE A STAND-ALONE MACHINE AND SHALL AS FAR AS PRACTICABLE CONTAIN OR EXHIBIT THE FOLLOWING FEATURES:

1. ITS SECURITY KEY CONTROL MUST BE EMBEDDED INSIDE THE MACHINE SEALING IT AGAINST HUMAN INTERVENTION;
2. ITS OPTICAL MARK READER MUST HAVE A BUILT-IN PRINTER FOR NUMBERING THE COUNTED BALLOTS;
3. ITS BALLOT FEEDER MUST BE AUTOMATIC AND NOT MANUAL;
4. SPEED OF COUNTING MUST BE AT LEAST FROM 100 TO 150 BALLOTS PER MINUTE;
5. THE COUNTING MACHINE MUST HAVE A FAKE BALLOT REJECTOR;
6. THE MACHINE MUST BE TEMPERATURE-RESISTANT AND RUST-PROOF;
7. THE OPTICAL LENS MUST HAVE SELF-CLEANING DEVICE; 8. MACHINE MUST BE STAND-ALONE AND NOT CONNECTABLE TO EXTERNAL COMPUTER PERIPHERAL FOR THE PROCESS OF VOTE CONSOLIDATION;

- 8. IT MUST HAVE UNINTERRUPTED POWER SUPPLY (UPS);
- 9. IT MUST BE ABLE TO CONSOLIDATE VOTES WITHOUT EXTERNAL COMPUTER EQUIPMENT;
- 10. THE SYSTEM MUST BE USER-FRIENDLY, NOT REQUIRING COMPUTER LITERATE OPERATORS;
- 11. THE MACHINE SECURITY MUST BE BUILT-IN AND MULTI-LAYER EXISTENT ON HARDWARE AND SOFTWARE WITH MINIMUM HUMAN INTERVENTION USING LATEST TECHNOLOGY LIKE ENCRYPTED CODING SYSTEM;
- 12. IT MUST PROVIDE MANUALS FOR OPERATORS AND TRAIN COMELEC PERSONNEL PROPERLY IN THE USE AND MAINTENANCE OF MACHINES;
- 13. IT MUST BE SO DESIGNED AND BUILT THAT ADD-ONS MAY BE IMMEDIATELY AND AT LESS EXPENSE INCORPORATED INTO THE SYSTEM SHOULD A TOTAL AND NATIONWIDE COMPUTERIZATION OR AUTOMATION FROM THE PRECINCT-LEVEL TO CANVASSING BE PROVIDED;
- 14. IT MUST PROVIDE THE SHORTEST TIME NEEDED TO COMPLETE THE COUNTING OF VOTES AND CANVASSING OF THE RESULTS OF THE ELECTION; AND
- 15. ITS ACCURACY MUST BE GUARANTEED, THE MARGIN OF ERROR MUST BE DISCLOSED AND BACKED BY WARRANTY.

IN THE PROCUREMENT OF THIS SYSTEM, THE COMELEC SHALL ADOPT AND PUBLISH AN EQUITABLE SYSTEM OF DEDUCTIONS FOR DEVIATIONS OR DEFICIENCIES IN MEETING ALL THE ABOVE FEATURES AND STANDARDS.

FOR THIS PURPOSE, THE COMELEC SHALL CREATE AN ADVISORY COUNCIL TO BE COMPOSED OF THE CHAIRMAN OR COMMISSIONER DESIGNATED TO REPRESENT HIM, AND TECHNICAL EXPERTS FROM THE DEPARTMENT OF SCIENCE AND TECHNOLOGY, THE INFORMATION TECHNOLOGY FOUNDATION OF THE PHILIPPINES, THE UNIVERSITY OF THE PHILIPPINES, AND THE NATIONAL TELECOMMUNICATIONS COMMISSION. THE COUNCIL MAY AVAIL ITSELF OF THE EXPERTISE AND SERVICES OF RESOURCE PERSONS OF KNOWN COMPETENCE AND PROBITY.

That is, in sum, my amendment, Mr. President.

The President. What does the sponsor say?

Senator Santiago. Mr. President, I accept the amendments verbatim.

The President. Is there any objection?

Senator Fernan. Mr. President.

The President. Senator Fernan is recognized.

Senator Fernan. May we just make certain comments regarding the proposal. While we have no objection to the proposal, there are three matters here in the enumeration of the features of the system which might be difficult to comply with.

Like No. 6, "that the machine must be temperature-resistant and rust-proof." The problem is rust-proof because, considering the conditions here in the Philippines, it might be difficult to preserve or maintain the machine in a rust-proof condition. That is one.

No. 8. Machine must be stand-alone and not connectable to external computer peripheral for the process of vote consolidation.

From the experience of the Comelec, all the machines that they have seen or heard of are connected to a computer. So that might pose a problem, if the distinguished gentleman is aware.

One more point, Mr. President. No. 10. It must be able to consolidate votes without external computer equipment. The experience of the Comelec is that it must have a computer.

These are the observations. Thank you, Mr. President.

Senator Gonzales. May I just make some explanations, Mr. President?

The President. Please proceed.

Senator Gonzales. All of these features were gathered after reading the various systems of computerized elections. I think all of them are technically possible. For example, why do we want the machine to be temperature-resistant and rust-proof?

Mr. President, after an election, all of these machines will be stored probably in huge warehouses, and one weakness of the government is maintenance and care while they are waiting for use in another election or for whatever lawful activity.

We always prefer a stand-alone and not connectable to external computer. That is why the amendment says that the system must be "a stand-alone machine and shall as far as practicable...."

In short, it is not an absolute rule. They had been conceived because we thought that they would attain the best results. That is precisely why we said that in the procurement of this system, the Comelec shall adopt and publish an equitable system of deductions for deviations or deficiencies in meeting all the above features and standards.

This would be applicable to all bidders and suppliers, Mr. President. In the event that they cannot comply with any requirement, a certain deduction is made. That is to be done with respect to them all. None will be favored.

For example, when Napocor awards, let us say, an oil-powered plant, it lays down the specification. But it is aware that not all bidders can comply 100 percent with the specifications so provided. That is why, it has a system of deviation. *Kung hindi mo natupad ito* fully, then how much points will be deducted from them?

In that way, it is able to finally adjudge which, more or less, conforms to what Napocor wants. That is the reason for all of these provisions, Mr. President.

Senator Roco. Mr. President.

The President. The gentleman from Camarines Sur is recognized.

Senator Roco. May we be honored, Mr. President, with some questions for the distinguished Minority Leader?

Senator Gonzales. Willingly, Mr. President.

Senator Roco. This is purely for information, Mr. President. Let me just try to understand this—rust-proof. Would the gentleman wish to enlighten me on rust-proof? Let us say, the computer over there is plastic. So the external is rust-proof, if it is plastic.

But the internal hardware, from what I understand about it, is that there are different types of combination of copper and sometimes some silver. So they normally would be rust-proof. The normal computer is normally rust-proof unless constantly bombarded by moisture. So the normal computer, would that qualify under this rust-proof?

Senator Gonzales. It will depend on the technical

evidence, Mr. President. I cannot say offhand that a particular machine or equipment meets this qualification or not. But what I believe, and I think the gentleman is a computer-literate person, these are not really technologically impossible: in fact, they are already in existence.

Senator Roco. In fact, I have really no problem. I am just trying to ascertain the parameters. Rust-proof is normal. Even the lap top computer, of course, gets ruined if we pour water or even put salt or any small grain in it. But rust-proof, we are not thinking of any new technology like titanium that is totally immune to rust. That is not what we have in mind.

Senator Gonzales. Mr. President, in the case of the electronic ballot box that was proved to be successful in Brazil, the members of the electoral court of Brazil went to the United States and to other places in Europe and studied the automated machines there. They found out that none of the machines satisfied their requirements. What they did was they wrote the law wherein they provided all the requirements of the machine they wanted.

The big companies like IBM, Unisys and others, without expense on the part of the government, gathered together for the purpose of devising the same and, thereafter, made a prototype and subjected it to one test after another.

I think what they did successfully, we can also do here. In this particular case, they are more or less ordinary features of an automated system, except probably one or two which is really borne out of our experiences.

Senator Roco. Mr. President, I do not propose to disagree. I have not discussed this with any technician or anybody else. I am just trying to make sure I understand it correctly.

The No. 8—I am just following the lead of Senator Fernan—I am not sure I understand this. I understand what "stand alone" means. But "not connectable" is something that escapes my appreciation because most machines are, in fact, connectable. Its adaptability and compatibility with other machines make it a better machine.

So when we say "not connectable," we mean there is absolutely no way of plugging into it or plugging into another machine whatever that may be. Or what we are merely saying is that when used, they must "stand alone" and when used in balloting, should not be connected to any external computer peripheral.

I am just trying to clarify because a machine might be connectable so that it has adaptability. But when it is being used for the casting of ballots, it should totally "stand alone." So it is the "not connectable" that I am wondering about. I mean it can be

connectable. But when it is used, it must totally "stand alone."

Senator Gonzales. I lifted this from an offer that was formally made by Sykonic, Inc. to the Commission on Elections.

Senator Roco. Yes. I can see the difficulty of the gentleman and I appreciate also the security aspect of being "stand alone." That I totally endorse. But "not connectable" is an inhibition. To me, it is a limitation to a machine.

Senator Gonzales. The intention here is to make it one integral unit.

Senator Roco. Yes. For it to count whatever was plugged into it, we do not need any additional.

Senator Gonzales. That is it. That is further qualified by the word "stand alone." If such thing is to be made, then it must be built-in and designed as an integral part of the machine.

The President. The Chair would like to be qualified on this question. My reaction here is that it stands alone and not connectable, and I do not know where the process is. That it cannot be connected to a mother system which can change the result or interfere with the counting on the precinct level. I think that is the big doubt with this computerization. If we have this on the precinct level and it is supposed to be connected, let us say, to Comelec Manila for transmission of the results immediately, what assurance do we have that there is no *dagdag-bawas* in the transmission?

Senator Roco. In fact, I also appreciate the concern of the Senate President, and I think we do have a meeting of minds. What we are saying is, it must stand alone and there must be no other machine connected to it. This phrase "not connectable" should be changed.

Senator Gonzales. We are willing to accept any amendment insofar as it captures the particular intent.

Senator Roco. Yes, Mr. President. I think what the gentleman may prefer is that it must stand alone and shall not be connected to any external computer peripheral for the process of vote consolidation.

Senator Gonzales. My understanding here of that "stand alone" is that it has the power not only to count but also the power to consolidate.

Senator Roco. That is correct. That is also what I mean. But that phrase "not connectable," every machine can technically be connectable to any other machine. So, there is no machine that is not connectable, *maliban na lamang kung talagang sinemento,*

or it is a hardware that is unbreakable and cannot be broken up into component parts. *Hindi po nagkakaiba ang iniisip natin. Naghahanap lamang po ako ng bagong termino dito sa "not connectable,"* because it is not physical. It may, in fact, be physically connectable somewhere else.

Senator Gonzales. We can assure the gentleman that we will welcome that suggestion, but this is borne out also by the experience in ARMM.

Senator Roco. Yes, Mr. President.

Senator Gonzales. *Ang "stand alone" lamang dito ay iyong counting machine. Pagka prepara na ng election returns ay konektado na iyon sa computer equipment. Ang sinasabi noong iba ay mayroon pa raw keyboards na ginagamit.*

Senator Roco. *Mali nga po iyon. Sa nakita ko ay mali nga po iyon.*

Senator Gonzales. That is why they are complaining of delay in the consolidation of votes. So, what we are thinking is that it can consolidate the votes as they are being canvassed or counted, Mr. President.

Senator Roco. *Wala pong pagkakaiba ang ating paniwala doon.* So, that explains also No. 10.

Dito sa pahina 2 ay nakikita ko iyong advisory council, chairman, commissioner, technical experts from the DOST, Information Technology Foundation, UP. Bakit wala pong involvement dito ang private sector? Sa pagkaintindi ko—wala po akong irerekomenda—ay may tinatawag na Computer Society of the Philippines that is purely private, and they will be a minority. Whether we like it or not, we should take legislative notice that private sector may have available information that may not be available to some of these people. Kaya kung maaari lamang ay magkaroon ng sectoral representative from the Computer Society of the Philippines, whoever it may be. I have no one in mind.

Senator Gonzales. We will have no objection to that. But this portion of the amendment is borne out of my interpellation of the distinguished sponsor when she expressed the opinion that regardless of whether this is an advisory council or not, it is an official body, it is a public office. It does not seem right that one who is not an officer or employee of the government of the Republic of the Philippines be made a member thereof. They are actually not barred because the council may avail itself of the expertise and services of resource persons of known competence and probity.

Senator Roco. The parallel experience we have,

Mr. President, in a number of laws, I have seen that. But the one I am familiar with will be the Bangko Sentral ng Pilipinas. Even in the Monetary Board there is a representative of the private sector and there will, of course, be restriction on this private sector representative.

Iyon lamang po ang gusto kong ipakiusap, kung maaari.

Senator Gonzales. In those cases, *nagkakaroon po ng* appointment. They, in effect, already become officials or employees of the government. They are subjected to the same liabilities and obligations as other government officials and employees.

Senator Roco. *Tama po iyon.* Whatever the limitations may be, pursuant to laws they should also apply. *Ang sinasabi ko lamang, G. Pangulo, ay may magagaling mula sa private sector at talagang sayang naman kung hindi tayo makapaglalagay ng isang kinatawan o representative dito.*

Senator Gonzales. I would even think that some of the best really come from the private sector.

Senator Roco. *At kung makukuha natin ay talaga namang makakatulong.*

Senator Gonzales. Is that the Information Technology Foundation of the Philippines?

Senator Roco. I do not really know. I know that there is a Computer Society of the Philippines of some kind. After all, this will be appointed by the President. The private sector may nominate one who obviously should have outstanding qualification. Because why bother to get him if he is not outstanding in qualifications?

Senator Gonzales. The gentleman would rather have him unnamed or not designated here but merely say, "a representative of the private sector to be designated by the Comelec."

Senator Roco. Something like that. I have no choices. By the Comelec, fine.

Senator Gonzales. I have no problem with that, Mr. President.

Senator Roco. Or recommended by the computer industry and designated by the Comelec so that we have the inputs of everybody.

Salamat po.

The President. Just for purposes of having the gentleman

think about it, if the Chair would be allowed. This is with regard to No. 13, the fact that it must provide manuals for operators and train Comelec personnel properly in the use and maintenance of machines.

Senator Gonzales. Yes, Mr. President.

The President. I guess it goes without saying that how can we safeguard the system unless the party and candidate's watchers are also trained? Now, if we will have national, times X number of machines, every political party and every presidential or vice presidential candidate would like to see to it that his people and his watchers are trained.

Technically, there are 200,000 precincts. In the case of 1,600 municipalities, there will be several thousands of people to be trained. Now, could that be included and eventually, in whatever section, should the Comelec not take the responsibility for conducting the training for party watchers? This is a very technical matter. The parties are not qualified to conduct their own training.

Senator Gonzales. Probably that can be provided for in another section, because this refers to the obligation of the supplier to the Comelec. But there is nothing to stop us from requiring the Comelec to in turn provide such training to representatives of the political parties.

The President. Like manuals, Mr. Minority Leader, then the supplier must provide enough manuals for all the political party watchers to use, instead of the Comelec having to reprint the same. That is why I brought it up while it is early because this is a very technical matter.

The second point is, we are aware that when the GSIS first bought its system, it was not able to use it, whatever computer it was. We are aware that in the Armed Forces there are deliveries of equipment and they are immediately junked; they cannot be used. We are aware that the MWSS bought *bodegas* and *bodegas* of equipment, meters and pipes that were not used. Should we not require a warranty somewhere here that the computers that will be delivered would be warranted for a certain number of years, at least, two elections, and that if these will have to be replaced, these should be replaced without cost?

Senator Gonzales. I think that is a very useful proposal, and we can incorporate it in this paragraph.

Senator Romulo. Mr. President.

The President. The Assistant Minority Leader is recognized.

Senator Romulo. May I just ask the sponsor, Mr. President, a few questions on this proposed amendment?

Senator Gonzales. Gladly, Mr. President.

Senator Romulo. Under this amendment, the Comelec shall create an Advisory Council. The membership proposed are all government officials except the Information Technology Foundation of the Philippines and the expert to be recommended by the computer industry. Is that correct?

Senator Gonzales. That is correct, Mr. President. That is the Roco proposal.

Senator Romulo. I suppose, at a certain point, some citizens' arm would also like to be represented here. That is not contemplated in this section.

Senator Gonzales. As it is, Mr. President, and even considering the proposal of Senator Roco, they are not, unless such group may influence the Comelec to recommend an expert or work it out with the computer industry to have a representative of their confidence to be designated or appointed as member of the Council.

Senator Romulo. In other words, the expert or member from the computer industry would represent the so-called citizens' arm.

Senator Gonzales. Yes, Mr. President, unless the gentleman would want to enlarge its membership. The choice of the machine and its procurement is very important. In fact, the heart of my interpellation has always been on this particular point.

Senator Romulo. That is correct, Mr. President. I am not proposing any addition. I am trying to provide a shield when this is being proposed. That is why I am trying to elicit or draw out the intent of the sponsor here, because I can foresee some other amendments which would so include other so-called experts. I think that will come from other members of the Senate.

As regards the 16 features that the gentleman has enumerated, the 16th feature says "Its accuracy must be guaranteed. The margin of error must be disclosed and backed by warranty." How will this come about, Mr. President?

Senator Gonzales. For one thing, the idea of a warranty for at least two elections has been suggested by the Senate President, and that is very much welcome.

Senator Romulo. I do not disagree with that, Mr. President.

Senator Gonzales. In all of the standard offers of companies supplying this machine, they always indicate their margin of error. For example, AIS indicated a margin of error in its manual or in its offer to the Comelec.

Senator Romulo. Yes, Mr. President. My concern here is the accuracy before the machine is qualified. That is my concern. Therefore, what I am trying to put across is that there must be adequate testing. So that before the equipment is purchased—I have heard that some of our colleagues are going to propose amendments—or leased or borrowed, this is adequately and reasonably tested. There is not only a guarantee of accuracy but we are assured that this is as accurate as one can come, and if there is an error, we know the percentage or margin of error through adequate and reasonable testing.

Senator Gonzales. I see the point now, and with the gentleman's permission, we will draft another paragraph for that particular purpose.

Senator Romulo. Yes. My point, Mr. President, is that it would do us no good if we only find out that it is not accurate and the margin of error is quite significant after the election. It would not do us any good and, therefore, there must be testing to ensure both the Comelec and the experts, the Advisory Council, that it is as accurate as one can come up and that we are informed or we have knowledge of what kind of error it will come out with.

The other question that I would like clarified, Mr. President, is the ninth feature which says, "It must have an uninterrupted power supply." Just what does this mean?

Senator Gonzales. Probably in the nature of a battery or a generator, especially in far-flung areas where a failure or fluctuation of electrical service may happen. That certainly will adversely affect the conduct of the elections.

Senator Romulo. In fact, that is part of the feature of "stand-alone" and "not connectable," or whatever phrase that is, so that it can stand alone. If in certain areas, both far-flung and nearby, there is no power or the power weakens, this equipment or machine, by itself, will have an uninterrupted power supply.

Senator Gonzales. That is correct, Mr. President.

Senator Romulo. I heard the Senate President state that there would be about 200,000 precincts. I suppose there will be clustering of precincts.

Senator Gonzales. I do not know what is the final shape of the bill when we pass it. Personally, I am against clustering, Mr. President.

Senator Romulo. The point I am driving across is that if there is no clustering, therefore, the gentleman is talking of 200,000 machines or equipment. Is that right?

Senator Gonzales. No, not machines, because there are 200,000 precincts. But these are counting machines and they are only in the municipalities and cities. There will be more than 2,000.

Senator Romulo. In other words, this will be gathered together from precincts and then delivered to a central point.

Senator Gonzales. Under this bill, the ballots that are still in the ballot boxes are to be delivered to the municipal counting center which is usually located in the *poblacion*, the seat of the municipal government. It is there where the counting will be made, the preparation of the election returns and of the municipal canvass.

Senator Romulo. And this would be about 2,000 counting equipment or machines?

Senator Gonzales. Yes, Mr. President, because I count that there are...It must be less than that because there are 1,600 municipalities and about 150 cities, both highly urbanized and component. Of course, they will also need the machine in the provinces for purposes of the canvass.

Senator Romulo. That is correct. Perhaps we are really talking of 2,000 counting machines.

Senator Gonzales. Probably, Mr. President.

Senator Romulo. More or less. Therefore, in each precinct, what kind of machine is used where one drops his ballot?

Senator Gonzales. There is none. It is manual. It will still be done in accordance with...

Senator Romulo. In other words, in each precinct it is manual?

Senator Gonzales. It is manual, Mr. President.

Senator Romulo. Which is dropped or slid inside a ballot box?

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

Senator Romulo. So, it is then this ballot box which is transported to the municipal center—

Senator Gonzales. For counting.

Senator Romulo. —for counting. Unlike in the manual that we have had heretofore at the precinct, the ballot boxes are opened--

Senator Gonzales. And counting is done.

Senator Romulo. —and there is counting in each precinct. Here, there will be no counting in the precinct.

Senator Gonzales. There is none.

Senator Romulo. But there will be counting in the municipal center.

Senator Gonzales. That is correct, Mr. President.

Senator Romulo. I see.

Senator Gonzales. That is why I am objecting to this provision.

Senator Romulo. I do not know, Mr. President, if it is provided for in the other parts of the bill but it seems to me, in addition to the training of party members, as suggested by the Senate President, there must be a massive, widespread information and educational campaign so that our people, our voters, to start with, would know exactly what this procedure would be.

In fact, Mr. President, I understand bishops are members of Namfrel and they are the ones who have expressed—some of these bishops have expressed to me—the concern that while they are for computerization, they have asked that there should be a nationwide intensive educational and dissemination campaign so that they will understand the new procedure and what to expect from this new procedure.

Senator Gonzales. That is very important and that is why, Mr. President, if the distinguished gentleman will recall, one of the laws that the Congress has enacted is a bill I have authored requiring that at least 30 days before the elections, the Commission on Election shall furnish every registered voter in a precinct with the voter's information sheet, with a copy of the ballot and instructions as to how to fill the ballot.

Senator Romulo. Yes.

Senator Gonzales. In short, *magagawang lahat ito tungkol doon*. I do not know but it has been enforced, except that for the shortness of the period of 30 days, well, some voters have not received this bulletin of information.

Senator Romulo. We are coauthors of that bill, Mr. President.

Senator Gonzales. Yes, the gentleman recalls.

Senator Romulo. —30 days, but what I am suggesting or conveying here is that we should not rely only on that 30-day notice. I am suggesting that we should have this nationwide massive information and educational campaign so that everybody understands this process.

Senator Gonzales. Yes.

Senator Romulo. So that it will be what we call “computer-friendly” or “process-friendly” to all and not only to the experts.

Senator Gonzales. In fact, Mr. President, we have no disagreement on that and the gentleman’s proposal is complementary to the law that we have already enacted.

Senator Romulo. What I have just stated is included in the gentleman’s bill, No. 11, “the system must be user-friendly.”

When we say “user-friendly,” we are really referring to each voter because it is the voters who will use this or it is the voter who will eventually have to use this wherever they drop their ballots; but it cannot be counted there, it will be counted in the “munisipyo.”

To me, the “user” is the voter as well as the Comelec people and the representatives of the parties.

Senator Gonzales. Well, probably, we still have to wait for some time, and this is my hope, that probably, it will be not far-off from us to have that day when computerization begins at the precinct level.

Senator Romulo. Yes, Mr. President. Let me just understand this process. After it is counted through this stand-alone equipment or machine in the municipal centers, what then is the next step?

Senator Gonzales. Then, it will generate the election returns.

Senator Romulo. Yes, Mr. President.

Senator Gonzales. According to this bill, the Board of Election Inspectors shall then authenticate the election returns--

Senator Romulo. That is correct, Mr. President.

Senator Gonzales. —and thereafter, announce the results of the election in each and every precinct right there in the place where the counting center is located.

Senator Romulo. So that in the municipal center, the Comelec officials there or representative will announce not only the total for that municipality or city, but also the total for each precinct?

Senator Gonzales. For each precinct, Mr. President. These are the election returns—the votes as reflected in the election returns will now be consolidated for the purpose of generating the municipal certificate of canvass. Then they are transferred to a diskette or floppy disk as they call it.

Senator Romulo. Also in the municipal center?

Senator Gonzales. Also right there and then.

Senator Romulo. That is another equipment, Mr. President?

Senator Gonzales. Well, maybe in our concept it should be an integral part of the counting machines. So the counting machine not only counts but consolidates and prepares these election documents.

Senator Romulo. These diskettes then will all be transported to the provincial centers?

Senator Gonzales. Yes, manually.

Senator Romulo. From the provincial center there will be another feeding to the equipment or machine?

Senator Gonzales. Yes, Mr. President, for the purpose of generating the provincial or city certificates of canvass.

Senator Romulo. Then also a disk will be developed out of this consolidation and the disk then will be transported to the Comelec.

Senator Gonzales. To the Comelec for purposes of canvass of the senatorial elections.

Senator Romulo. That is correct. How about the presidential and vice presidential canvass which goes to the Senate, is there another disk here?

Senator Gonzales. Yes. The Constitution says it should be to Congress addressed to the President of the Senate.

Senator Romulo. That is why there will be another diskette?

Senator Gonzales. Yes.

Senator Romulo. There, in fact, would be two diskettes emanating from the province or city: one to the Comelec for purposes of the senatorial, and one to the Senate for the purpose of the presidential and vice presidential canvass.

Senator Gonzales. That is the reason why in my speech *en contra* to the Fernan amendment, I mentioned that although I know that the same cannot be realized right now, that probably, from the province or the city, then they should be transmitted or forwarded to a national counting center whether by means of window or satellite.

This national counting center will now canvass the results of the election and the certificate of canvass will be prepared by the same to be furnished the Comelec and the Congress of the Philippines, with the latter having the ministerial duty to proclaim the results of the election as per the results of the canvass.

Senator Romulo. Therefore, Mr. President, the equipment or machine of each municipality, of each province or city and the national counting center must have, in concurrence, all these features and specifications?

Senator Gonzales. Yes, Mr. President.

Senator Romulo. Including, especially accuracy?

Senator Gonzales. Yes, Mr. President. That is why, we have always tried to say that technology is so dynamic, the advance is dizzying. That is why we said that it must be so designed and built that add-ons, meaning, features to upgrade it, may be immediately and at minimum expense incorporated into the system should a total and nationwide computerization or automation from the precinct level to canvassing be provided.

Senator Romulo. Well, Mr. President, I have just asked these few questions because we are still in the process of individual amendments. After each one of us is provided with a clean copy of the bill, then the period of individual amendments will continue.

Thank you, Mr. President.

Senator Gonzales. The good senator's questions are all very welcome, Mr. President.

The President. The Chair would like to remind the Members of the Senate that tomorrow is a special Pasay City holiday. So there are no sessions and no office. We will meet again on Wednesday.

The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION
OF S.NO. 2314

Senator Tatad. Mr. President, I move that we suspend consideration of Senate Bill No. 2314.

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

CONSIDERATION OF P.S. RES. NO. 1090
(Expressing Senate's Sympathy and
Condolences to the Family of the
Late Rep. Emigdio Bondoc)

Senator Tatad. Mr. President, we are supposed to meet with the Chinese delegation in a few minutes. Before that, with the consent of the Chamber, I move that we consider Proposed Senate Resolution No. 1090.

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

Consideration of Proposed Senate Resolution No. 1090 is now in order. With the permission of the Body, the Secretary will read only the title without prejudice to inserting in the *Record*, the whole text thereof.

The Secretary. Proposed Senate Resolution No. 1090, entitled

RESOLUTION EXPRESSING THE SENATE'S
DEEPEST SYMPATHY AND CONDOLENCES
TO THE FAMILY OF THE LATE
REPRESENTATIVE EMIGDIO BONDOC OF
THE 4TH DISTRICT OF PAMPANGA AND TO
HIS CONSTITUENTS

The following is the whole text of the resolution:

Introduced by Senator Macapagal-Arroyo

WHEREAS, The late Representative Emigdio Bondoc, a native of Macabebe, Pampanga, was the Chairman of the House Committee on Ethics and third-termer from the 4th district of Pampanga;

WHEREAS, he distinguished himself as a student of law while he was at the Ateneo de Manila University where he graduated in 1947 and moved on to obtain his

DEC. 3, 1997

requiring a certificate of transaction to be submitted by a licensed real estate service practitioner as to the contract and the details of the transaction as a requirement for registration with government agencies. In addition, it shall certify payment or withholding of the applicable taxes and fees. This requirement is both for the protection of licensed real estate service practitioners from unlicensed ones and for the government to enable it to collect the proper revenues arising from such transaction. No deed of conveyance in any real estate transaction shall be accepted for registration by the Registry of Deeds unless this certification is submitted.

The Commission is imbued with quasi-judicial powers. To prevent clogging of its dockets due to excessive delay in the adjudication of cases, the bill provides that the Commission must rule within 90 days from the date a complaint is filed except in exceptionally meritorious cases to be specified in its rules of procedure. Appeals shall be made to the Office of the President within 15 days.

There are hundreds of thousands of licensed real estate service practitioners in the country today. They are well organized and are represented by national federations with local chapters in all regions of the country. Many of them are here in the Session Hall this afternoon.

Mr. President, as the sponsor and coauthor of this bill, I appeal to the Senate to grant their common request for early passage of this long-overdue measure.

Thank you. [Applause]

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2228

Senator Tatad. Mr. President, we congratulate the distinguished sponsor on that sponsorship speech.

To allow our colleagues to prepare for the interpellations, I move that we suspend consideration of Senate Bill No. 2228.

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

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 3:30 p.m.

RESUMPTION OF SESSION

At 3:32 p.m., the session was resumed.

The President. The session is resumed.

BILL ON SECOND READING

S. No. 2314 - Use of Automated Election System (Continuation)

Senator Tatad. Mr. President, I move that we now resume consideration of Senate Bill No. 2314. This is the Act authorizing the Commission on Elections to use an automated election system in 1998.

We are still in the period of amendments. A clean copy of the bill as of December 1 has been distributed to the senators. This reflects two major amendments, the Fernan amendments and the Gonzales amendments.

May I ask that the Minority Leader, Sen. Neptali A. Gonzales, be recognized.

The President. The Minority Leader, Senator Gonzales, is recognized.

Senator Gonzales. Mr. President, we have made a formal offer of our amendment last time, but upon suggestion of the Senate President, considering the substantive nature of the same, copies be distributed among the members and time be given them to go over said amendment. That was what actually happened. So the amendments have yet to be approved while already accepted by the chairman and sponsor.

May I request that certain changes in the amendments I have proposed be entered into the Record. With the permission of this Body, I would now read the full text of the proposed amendments.

The President. Please proceed.

GONZALES AMENDMENTS

Senator Gonzales. The amendments now would be on Section 4 to read as follows:

SEC. 4. FEATURES OF THE SYSTEM. -- THE SYSTEM SHALL UTILIZE APPROPRIATE TECHNOLOGY FOR

VOTING, AND ELECTRONIC DEVICES FOR COUNTING OF VOTES AND CANVASSING OF RESULTS. ITS MAIN FEATURES ARE SECURITY, RELIABILITY, ACCURACY, SPEED, EASE OF USE, MINIMUM HUMAN INTERVENTION, AND BUILT-IN AND ADEQUATE AUDIT/SECURITY/CONTROL MEASURES.

THE SYSTEM SHALL BE A STAND-ALONE MACHINE AND SHALL AS FAR AS PRACTICABLE CONTAIN OR EXHIBIT THE FOLLOWING FEATURES:

1. ITS SECURITY KEY CONTROL MUST BE EMBEDDED INSIDE THE MACHINE SEALING IT AGAINST HUMAN INTERVENTION;
2. THE OPTICAL MARK READER MUST HAVE A BUILT-IN PRINTER FOR NUMBERING THE COUNTED BALLOTS AND ALSO PRINT THE INDIVIDUAL PRECINCT NUMBER ON THE COUNTED BALLOTS;
3. THE BALLOT PAPER FOR THE OMR COUNTING MACHINE MUST BE OF THE QUALITY THAT PASSED THE INTERNATIONAL STANDARD LIKE ISO-1831, JIS-X-9004 OR EQUIVALENT FOR OPTICAL CHARACTER RECOGNITION;
4. ITS BALLOT FEEDER MUST BE AUTOMATIC, NOT MANUAL AND WITHOUT JAMMING;
5. SPEED OF COUNTING MUST BE FROM 100 TO 150 BALLOTS PER MINUTE;
6. THE COUNTING MACHINE MUST BE ABLE TO DETECT FAKE OR COUNTERFEIT BALLOT AND MUST HAVE A FAKE BALLOT REJECTOR;
7. THE COUNTING MACHINE MUST BE ABLE TO DETECT AND REJECT PREVIOUSLY COUNTED BALLOTS TO PREVENT DUPLICATION;
8. THE COUNTING MACHINE MUST HAVE THE CAPABILITY TO RECOGNIZE EACH INDIVIDUAL PRECINCT AND CITY OR MUNICIPALITY BEFORE COUNTING OR CONSOLIDATING THE VOTES;
9. THE SYSTEM MUST HAVE A PRINTER THAT HAVE THE CAPACITY TO PRINT IN ONE STROKE OR OPERATION SEVEN (7) COPIES (ORIGINAL PLUS SIX COPIES) OF THE CONSOLIDATED REPORTS ON CARBONLESS PAPER;
10. THE PRINTER MUST HAVE AT LEAST 128 KBYTES

OF (RAM) MEMORY TO FACILITATE THE EXPEDITIOUS PROCESSING OF THE PRINTING OF THE CONSOLIDATED REPORTS;

11. THE STAND-ALONE MACHINE MUST HAVE A BUILT-IN FLOPPY DISK DRIVE IN ORDER TO SAVE THE PROCESSED DATA IN A DISKETTE;

12. THE MACHINE MUST ALSO HAVE A BUILT-IN HARDDISK TO STORE THE COUNTED AND CONSOLIDATED DATA FOR FUTURE PRINTOUT AND VERIFICATION;

13. THE MACHINE MUST BE ABLE TO GENERATE COUNTED AND CONSOLIDATED REPORTS LIKE THE ELECTION RETURN, STATEMENT OF VOTES, CERTIFICATE OF CANVASS AT DIFFERENT LEVELS SUCH AS PRECINCT, CITY/MUNICIPALITY, PROVINCE, DISTRICT AND NATIONAL;

14. THE MACHINE MUST BE TEMPERATURE-RESISTANT AND RUST-PROOF;

15. THE OPTICAL LENS OF THE OMR MUST HAVE SELF-CLEANING DEVICE;

16. MACHINE MUST BE STAND-ALONE AND NOT CONNECTABLE TO EXTERNAL COMPUTER PERIPHERAL FOR THE PROCESS OF VOTE CONSOLIDATION;

17. IT MUST HAVE UNINTERRUPTED POWER SUPPLY (UPS);

18. THE SYSTEM MUST BE USER-FRIENDLY, NOT REQUIRING COMPUTER LITERATE OPERATORS;

19. THE MACHINE SECURITY MUST BE BUILT-IN AND MULTI-LAYER EXISTENT ON HARDWARE AND SOFTWARE WITH MINIMUM HUMAN INTERVENTION USING LATEST TECHNOLOGY LIKE ENCRYPTED CODING SYSTEM;

20. IT MUST PROVIDE MANUALS FOR OPERATORS AND TRAIN COMELEC PERSONNEL PROPERLY IN THE USE AND MAINTENANCE OF MACHINES;

21. IT MUST BE SO DESIGNED AND BUILT THAT ADD-ONS MAY BE IMMEDIATELY AND AT LESS EXPENSE INCORPORATED INTO THE SYSTEM SHOULD A TOTAL AND NATIONWIDE COMPUTERIZATION OR AUTOMATION FROM THE PRECINCT LEVEL TO CANVASSING BE PROVIDED;

22. IT MUST PROVIDE THE SHORTEST TIME NEEDED TO COMPLETE THE COUNTING OF VOTES AND CANVASSING OF THE RESULTS OF THE ELECTION; AND

23. ITS ACCURACY MUST BE GUARANTEED, THE MARGIN OF ERROR MUST BE DISCLOSED AND BACKED BY WARRANTY UNDER SUCH TERMS AND CONDITIONS AS MAY BE DETERMINED BY THE COMMISSION ON ELECTIONS.

IN THE PROCUREMENT OF THIS SYSTEM, THE COMELEC SHALL ADOPT AN EQUITABLE SYSTEM OF DEDUCTIONS OR DEMERITS FOR DEVIATIONS OR DEFICIENCIES IN MEETING ALL THE ABOVE FEATURES AND STANDARDS.

FOR THIS PURPOSE, THE COMELEC SHALL CREATE AN ADVISORY COUNCIL TO BE COMPOSED OF THE CHAIRMAN OR COMMISSIONER DESIGNATED TO REPRESENT HIM, AND TECHNICAL EXPERTS FROM THE DEPARTMENT OF SCIENCE AND TECHNOLOGY, THE INFORMATION TECHNOLOGY FOUNDATION OF THE PHILIPPINES, THE UNIVERSITY OF THE PHILIPPINES, THE NATIONAL TELECOMMUNICATIONS COMMISSION AND A REPRESENTATIVE OF THE PRIVATE SECTOR RECOMMENDED BY THE TELECOMMUNICATIONS INDUSTRY. THE COUNCIL MAY AVAIL ITSELF OF THE EXPERTISE AND SERVICES OF RESOURCE PERSONS OF KNOWN COMPETENCE AND PROBITY.

Aside from some of the changes, we incorporated in this amendment the suggestion of the Senate President that there be some form of warranty. We said that it should be backed up by a warranty but under such terms and conditions as the Commission on Elections may determine.

We also incorporated here a concern or a suggestion coming from Senator Roco in respect to the composition of the Advisory Council by adding a representative from the private sector upon the recommendation of the industry.

We cannot incorporate in this particular section the proposal of Senator Romulo that information be given even to voters or the party. But we will consider that when we come to the appropriate section because this section refers only to features of the system.

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Mr. President, before we gavel these

amendments, may I propose a couple of editorial amendments.

Senator Gonzales. By all means, Mr. President.

TATAD AMENDMENTS

Senator Tatad. On amendment No. 2, second to third line, in lieu of the words "ALSO PRINT", may I propose that we say ALSO FOR PRINTING.

Senator Gonzales. I am accepting the amendment to my amendment, Mr. President.

Senator Tatad. On amendment No. 9, line 1, between the words "THAT" and "THE", may I propose that the word "HAVE" be replaced with the word HAS.

Senator Gonzales. "That HAS the capacity." I accept the amendment of the Majority Leader.

Senator Tatad. Amendment No. 15, between the words "HAVE" and "SELF-CLEANING", may I propose to insert the article A.

Senator Gonzales. I accept the amendment, Mr. President.

Senator Tatad. Amendment No. 21, line 2, I propose to replace the word "LESS" with the word MINIMUM.

Senator Gonzales. It is accepted, Mr. President.

Senator Tatad. Thank you, Mr. President.

Senator Romulo. Mr. President.

The President. The Assistant Minority Leader is recognized.

Senator Romulo. Mr. President, last Monday, in asking for a clarification about amendment No. 23—ITS ACCURACY MUST BE GUARANTEED, THE MARGIN OF ERROR MUST BE DISCLOSED AND BACKED BY WARRANTY—we have no objection to this. But what we pointed out is that the accuracy must be tested before the election itself. Of course, there is a guarantee and all that, but that already has caused lot of problems. So we have suggested that there must be accuracy and the margin of error must be tested prior to the election itself so that it ensures that during the election, we have a machine that is accurate.

Senator Gonzales. Mr. President, I do not know whether this will meet the satisfaction of the Assistant Minority Leader,

that is Section 7, "Examination and Testing of Counting Machines." That is why I did not include it in this particular section because this merely deals with the features. We are describing the system.

But there is a specific section, and that is Section 7, appearing on pages 4 and 5 of the bill.

Senator Romulo. Mr. President, since it is in Section 7, we will come to that when we reach Section 7.

Senator Gonzales. That is right, Mr. President.

Senator Romulo. Thank you, Mr. President.

The President. Is there any objection to the amendments? *[Silence]* There being none, the amendments are approved.

Senator Roco. Mr. President.

The President. The gentleman from Camarines Sur and Bohol, Senator Roco, is recognized.

Senator Roco. Mr. President, I do not propose to object, and I am perfectly happy with the approval. But may I just ask a little clarification from the distinguished Minority Leader, just to make sure that we can get this implemented in a correct fashion, if the gentleman would yield.

Senator Gonzales. Gladly, Mr. President.

Senator Roco. I am still on my old point about connectable. I am on page 3, No. 16. I notice with the additions, No. 21 also has some additional features—"It must be so designed and built that add-ons may be immediately and less expense incorporated..."

Senator Gonzales. It is now "minimum," Mr. President, "at minimum expense."

Senator Roco. Yes, at minimum expense. May we inquire from our distinguished colleague. May this not technically contradict the non-connectable feature? Because when we have "add-ons" we will have to be connectable. In fact, the add-ons normally are attached. So I am just raising it.

Senator Gonzales. Mr. President, I think these are not incompatible. We have to make provisions because I, personally, am looking to the day—call it a dream—when we have these computerized polls starting from the precinct level and municipality, then province, then to the national counting center. All of these, technically, can be done. In short, they are

really a part of a system. These will just be add-ons.

That is why the machine must be designed and so built. These are really part of the same system.

Senator Roco. Yes. Do I take it, Mr. President, that because of the words "as far as practicable," and because of the suggestion on demerits and additional costings mentioned in the last paragraphs—"demerits or deductions"—that therefore, should one particular feature be very difficult, the Comelec may have an adjustability in their discretion?

Senator Gonzales. That is correct, Mr. President. At first, I wanted that they be minimum requirements but because of the constraints of time, I thought that Comelec should be given the appropriate flexibility.

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

Senator Fernan. Mr. President.

The President. The gentleman from Cebu, Senator Fernan, is recognized.

PARLIAMENTARY INQUIRY OF SENATOR FERNAN (As to Procedure on Introducing His Amendments)

Senator Fernan. Thank you, Mr. President. May I make a parliamentary inquiry before we discuss the other amendments.

This representation recalls, Mr. President, the understanding between the Chair of the Committee on Constitutional Amendments, Revision of Codes and Laws and this representation that if the version of Section 3 proposed by this representation, which is an amendment to the amendment of the Committee's proposal, is approved, the other provisions would be adopted which would be tailored to support the amendments.

The amended copy of the draft distributed to us as of December 1, 1997, the other provisions do not provide for a contingency in the May 11, 1998 elections for national offices where a certain kind of procedure has to be adopted which requires two ballot boxes, then the different kinds of ballots, plus other provisions which were contained in the draft that this representation presented before Section 3 was debated.

Therefore there are two possible approaches. I'm showing all this by way of reminder to the chair of the committee, or this is taken one by one as we go through each and every page?

The President. The later procedure is what we are following now, that as we go through this page by page, subsequent amendments may be introduced.

Senator Fernan. In which case, I will be ready to stand on those pages.

The President. At the proper time.

Senator Fernan. Yes, at the proper time, Mr. President. Thank you.

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. The Gonzales amendments having been disposed of, I propose that we go through the bill page by page to facilitate action.

The President. Yes. In the meantime, I suggest that the gentleman from Cebu circulate the proposed amendments that he intends to propose on the different pages.

SUSPENSION OF SESSION

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

It was 3:52 p.m.

RESUMPTION OF SESSION

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

The President. The session is resumed.

SUSPENSION OF CONSIDERATION OF S. NO. 2314

Senator Tatad. Mr. President, to allow our distinguished colleague from Cebu and the sponsor of the measure to work on the proposed individual amendments, I move that we temporarily suspend consideration of Senate Bill No. 2314.

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

At this juncture, the Senate President relinquished the Chair to Sen. Juan M. Flavie.

BILL ON SECOND READING
S. No. 2215 — Philippine National Police
Reform Act of 1997
(Continuation)

Senator Tatad. Mr. President, I move that we resume

consideration of Senate Bill No. 2215 as reported out under Committee Report No. 465.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 2215 is now in order.

Senator Tatad. We are still in the period of amendments. I ask that the distinguished sponsor be recognized.

The Presiding Officer [Sen. Flavie]. Senator Mercado is recognized.

Senator Mercado. Thank you very much, Mr. President. We are in the period of individual amendments, and we are ready to receive other amendments to our measure.

TATAD AMENDMENTS

Senator Tatad. Mr. President, on page 14, lines 15 to 19, in place of the presence of Section (a), I propose to insert the following as the new subsection (a).

THE COMMISSION SHALL, WITHIN A PERIOD OF THREE (3) YEARS FROM THE EFFECTIVITY OF THIS ACT, UNDERTAKE AND COMPLETE A COMPREHENSIVE REVIEW OF ITS POLICIES, PROGRAMS AND PRACTICES AND THE COMPLETE CIVILIAN ORIENTATION OF ITS MEMBERS TO THE END THAT THE PNP ATTAIN A TRULY CIVILIAN CHARACTER REGARDLESS OF ANY PREVIOUS MILITARY TRAINING OR EXPERIENCE OF ANY OF ITS PERSONNEL.

Senator Mercado. We accept the amendment, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Tatad. As a consequence, Mr. President, the other letters shall be relettered accordingly.

On page 25, line 16, I propose to replace the word and figure "fifteen (15)" with the word and figure TEN (10).

Senator Mercado. We accept the amendment, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

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

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

BILL ON SECOND READING

S. No. 2314—Automated Election System Act of 1998
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2314 as reported out under Committee Report No. 609.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 2314 is now in order.

SUSPENSION OF SESSION

In the meantime, the session is suspended, if there is no objection. *[There was none.]*

It was 5:55 p.m.

RESUMPTION OF SESSION

At 5:57 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 distinguished sponsor be recognized; likewise the gentleman from Cebu, to propose some individual amendments.

The President. The lady senator from Iloilo and the senator from Cebu are recognized.

Senator Santiago. Mr. President, earlier I manifested that I would have no objection as sponsor to any other amendments to be proposed by the gentleman from Cebu if they are in the nature and in the spirit of homogenizing the entire bill so as to reconcile Section 3 with the rest of the provisions of this bill.

I will simply request the gentleman to proceed with his reconciliatory provisions in the normal order that we observe, that is to say, by page and by section number.

The President. The gentleman from Cebu will proceed. The Chair will allow the gentleman from Cebu to finish his amendments before the Chair recognizes other proposed amendments. After that, we will come up with a revised draft before other amendments are proposed.

Senator Fernan. Thank you, Mr. President.

For the easy reference of my colleagues in the Senate, it would be advisable to refer to the committee draft, an amended copy as of December 3, 1997, which will be referred to when I discuss the amendments to this committee draft together with the draft that I distributed last Thursday, although there are copies available today for distribution. This is entitled "As of December 3, 1997" with a bigger print.

To start with, on page 1 of the title, from the second and third lines, delete the words AND LOCAL ELECTIONS, and on the third line, insert the words NATIONAL AND LOCAL. So that, with the amendments, it will read as follows:

AN ACT AUTHORIZING THE COMMISSION ONELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES AND PROVIDING FUNDS THEREFOR.

Senator Santiago. I have no objection, Mr. President.

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

Senator Fernan. There is no other amendment on page 1. Proceeding to page 2, starting on line 11 of the committee draft, in lieu of the existing No. 7 provision, insert a new provision which will read as follows:

NATIONAL BALLOT — REFERS TO THE BALLOT TO BE USED IN THE AUTOMATED ELECTION SYSTEM FOR THE PURPOSE OF THE MAY 11, 1998 ELECTIONS. THIS SHALL CONTAIN THE NAMES OF THE CANDIDATES FOR PRESIDENT, VICE PRESIDENT, SENATORS AND PARTY LIST REPRESENTATIVES.

Senator Santiago. I have no objection, Mr. President.

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

Senator Fernan. On the same page 2, starting on line 15, in lieu of the existing No. 8 provision, insert a new provision which will read as follows:

LOCAL BALLOT — REFERS TO THE BALLOT ON WHICH THE VOTER WILL MANUALLY WRITE THE NAMES OF THE CANDIDATES OF HIS/HER CHOICE FOR MEMBER OF THE HOUSE OF REPRESENTATIVES, GOVERNOR, VICE GOVERNOR, MEMBERS OF THE

PROVINCIAL BOARD, MAYOR, VICEMAYOR AND MEMBERS OF THE CITY/MUNICIPAL COUNCIL. FOR THE PURPOSE OF THE MAY 11, 1998 ELECTIONS, THIS BALLOT WILL BE COUNTED MANUALLY.

Senator Santiago. I have no objection, Mr. President.

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

Senator Fernan. Starting on line 19 of the same page, in lieu of the existing No. 9 provision, insert a new provision which will read as follows:

SPECIAL BOARD OF ELECTION INSPECTORS—REFERS TO THE BOARD COMPOSED OF TWO MEMBERS WHICH SHALL BE CREATED FOR THE PURPOSE OF THE MAY 11, 1998 ELECTIONS AND WHICH SHALL BE TASKED TO CERTIFY THE RESULTS OF THE COUNTING OF THE NATIONAL BALLOTS FROM THE PRECINCT. THERE WILL BE ONE SPECIAL BOARD FOR EACH COUNTING MACHINE COMPOSED OF THE CHAIRMAN AND THE COMELEC DEPUTY.

Senator Gonzales. Mr. President.

The President. The Minority Leader is recognized.

Senator Gonzales. Will the distinguished vice chairman of the committee yield for some clarificatory questions?

Senator Fernan. Gladly, Mr. President.

Senator Gonzales. Is this Special Board of Election Inspectors different and apart from the Board of Election Inspectors or BEI?

Senator Fernan. That is correct, Mr. President. There will actually be two Boards of Election Inspectors. The regular Board of Election Inspectors will be composed of three persons: the chairman, the poll clerk and a member.

Before the Special Board of Election Inspectors begins to function in a particular polling place, the Board of Election Inspectors will be composed of the regular three plus one who will later on become a member of the Special Board of Election Inspectors. The three will, as usual, attend to the manual counting of the ballots, while the fourth will escort the ballot box containing the national ballots from the precinct to the counting center.

Upon reaching the counting center, there will be another person waiting, a special deputy or the chairman, and they will

operate the machine together. One will feed the ballots into the machine and the other will be there to assist. This will be the composition of the Special Board of Election Inspectors.

Senator Gonzales. So, the Special Board of Election Inspectors will not perform any function during the casting of the votes. I understand that they will be assigned, in effect, to witness and observe the proceedings of the counting of the votes and probably the preparation of the election returns and, ultimately, the certificate of canvass. So, they will perform the duties in the place where the counting centers are located.

Senator Fernan. By way of clarification, Mr. President. Between the two members comprising the Special Board of Election Inspectors, one will be in the polling place and attend to the ballot box for the national ballots with the three others comprising the regular Board of Election Inspectors. While the other one will not be in the polling place but will all the time be at the counting center looking after the counting machine.

The first person that I mentioned, who is a member of the Special Board of Election Inspectors, will escort the ballot box from the polling place. He/she will be accompanied by other Comelec representatives, representatives of political parties, by the military, the PC, and the representatives of the citizens' arm who will all escort the ballot box containing the national ballots to the counting center.

This one individual, upon reaching the counting center together with the other person who is minding the machine, will now comprise the Special Board of Election Inspectors.

Senator Gonzales. I just want to clarify the definitions at this point. Probably when we come to the appropriate section, then we may ask further questions on this matter.

Senator Fernan. Yes, Mr. President.

Senator Gonzales. Thank you, Mr. President.

Senator Fernan. Thank you, Mr. President.

The President. What does the sponsor say?

Senator Santiago. I have the following comments to make. We are on the subject of Special Board of Election Inspectors.

My comment is that there should be as many BEIs or Board of Election Inspectors as there are precincts because they handle specific precincts. They might also come from another polling place.

In other words, I am leading to the proposal that this definition should be reviewed because the discussion is different from what a Special Board of Election Inspector does in his definition.

Senator Fernan. To my understanding, Mr. President, for every polling place there is one person who is a member of this Special Board of Election Inspectors who will escort the ballot box for national ballots to the counting center. But in that counting center, there will only be one person looking after the machine. And since the ballots will be fed into the machine on a precinct by precinct basis, then every time a particular precinct's votes are fed into the counting machine, the person minding the machine, as well as the person escorting that particular ballot box, will comprise the special Board of Election Inspectors.

Senator Santiago. With reference to this definition is Paragraph 9, specifically the sentence "There will be one special Board for each counting machine, composed of the Chairman and the Comelec deputy." Does this mean here, Mr. President, that there will one special board representing each precinct for each counting machine or one special board for each counting machine?

Senator Fernan. There will be one special Board of Election Inspectors for each counting machine but there will be this one member who will come from one polling place each in addition to the regular Board of Election Inspectors of three.

The President. How much will it cost?

Senator Fernan. The voting centers, Mr. President, if properly grouped together, will not be more than 1,000, approximately 800 to 1,000 voting centers, because the idea is to cluster municipalities together since the machine can easily handle 50,000 ballots. So, the idea is to cluster 50,000.

So, one person for one machine. If there are 800 machines, 800 persons or 1,000 persons but there will be another person for each and every polling place and this is the person who will escort the ballot box to the counting center and who will operate the counting machine together with the other person.

Senator Santiago. Mr. President, I am not yet enlightened. May the gentleman please define to us what is the specific personnel component in each of these centers?

In the precinct, there will be three-man board of election inspectors. Would that not be so? That is the system we observe now.

Senator Fernan. Yes. For the purpose of the May 11, 1998 elections, there will be four members of the regular Board

of Election Inspectors at the time the polls open. The regular three plus one who will eventually escort the ballot box for national ballots to the counting center.

Now, the three will proceed as usual with their tasks in the handling of the local ballots. As soon as the ballot box for the national ballots is closed, sealed and locked, this fourth person will accompany and escort the said ballot box to the counting center. While escorting the same to the counting center, he will be accompanied by everyone including representatives of the political parties, until it reaches the counting center.

In the counting center, he will be joined by another person who minds the machine, a person who knows how to operate the counting machine. So, that person escorting the ballot box together with the person minding the counting machine will constitute the Special Board of Election Inspectors as referred to in this particular section, Mr. President.

Senator Santiago. From that explanation I gather, therefore, that every precinct will have a fourth member whose only main function will be to transport the ballot box from that precinct to the counting center. Will that be correct?

Senator Fernan. That is correct, Mr. President.

Senator Santiago. So, for example, if the counting center is assigned to count 50 ballot boxes from 50 precincts within the vicinity, we would have an additional 50 more members of the Board of Election Inspectors?

Senator Fernan. That is correct, Mr. President.

The President. Will the Chair be enlightened? What is the personality or qualification or where is this additional one member of the Board going to be taken from?

Senator Fernan. Well, because this draft was prepared by Commissioner Teresita Flores together with the task force or the technical people of Representative Tanjuatco, as well as our technical people and the technical people of Namfrel, the idea is to get, if possible, from teachers. But I do not think we will have that many teachers. So, any civic group or organization willing to serve would be asked or be deputized by the Comelec to be the fourth member and the others will be operating the counting machines.

The President. The Chair thinks that has to be specified. It is dangerous to give the Comelec the complete discretion to choose who this all important fourth person will be. He will be the key in escorting and safeguarding these ballots.

Senator Fernan. Yes, Mr. President. In the next section, the Comelec deputy, who is the fourth member of the Board of Election Inspectors--which we will propose as an amendment--shall transport the ballot box containing the national ballots and other documents from the precinct to the counting center. The qualification of that Comelec deputy shall be subject to the criteria set by the commission. The Comelec deputy shall serve only for the purpose of the May 11, 1998 elections.

The President. With due respect to the gentleman from Cebu, we would rather specify some persons for the simple reason that many do not trust the composition of the Comelec at this point in time. That is exactly one of the major reasons why this bill had a hard time in the beginning, because we thought that with people like Manolo Gorospe in the Comelec, it will be dangerous to allow the Comelec to be the one to choose even the criteria set for this person.

Senator Fernan. I will not disagree with our distinguished Mr. Senate President. However, at the proper time, this amendment can be subjected to another appropriate amendment if it is deemed necessary.

The President. Anyway, we will leave it to the sponsor.

Senator Santiago. I object to paragraph No. 10 defining what a Comelec deputy is for several reasons. The first reason as has already been pointed out by the Senate President, is that this so-called Comelec deputy who will be nothing, more or less, than a person who will be tasked with escorting the ballot box from the precinct to the counting center is defined by paragraph 10 to be a person who "shall be subject to the criteria set by the Commission."

I believe that there is danger that we might violate the criteria for the proper delegation of legislative standards. We should, at the very least, specify what will be the qualifications of this Comelec deputy who actually is a member of the Special Board of Election Inspectors. Where will this person come from? Should he come, for example, from the Department of Education, Culture and Sports? Should he be a DECS officer?

As far as the rest of his qualifications are concerned, which are also of major importance to us in the Legislature, should his qualifications be on a par, or should be the same as the qualifications that are required of a member of the BEI?

I will request that the distinguished sponsor should, at this time, already specify what these requirements are because this person might turn out to be the crucial key to the entire automated election system.

SUSPENSION OF SESSION

The President. The Chair declares a one-minute suspension, if there is no objection. *[There was none.]*

It was 6:18 p.m.

RESUMPTION OF SESSION

At 6:25 p.m., the session was resumed.

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

Senator Tatad. Mr. President, since we are faced with a very important point, and to allow the distinguished sponsor and proponent of the amendment to work on what might be acceptable to the Body, I move that we suspend consideration of Senate Bill No. 2314.

Senator Santiago. Mr. President, I do not object to the motion. I just wish to leave these comments to our colleagues since we are to study the matter overnight.

We are presented with a prospect that under the automated system of voting, there will be a so-called Special Board of Election Inspectors the composition and the functions of which will be markedly different from those of the present Board of Election Inspectors.

I would like to recommend to the Body that the present Special Board of Election Inspectors, as proposed be composed of two members. One will be called the Comelec deputy. This person will be charged with transporting the ballot box from the precinct to the polling place or the counting center. Since it is estimated that we shall have about 230,000 precincts in next year's elections, this means that the law will have to identify a population of at least 230,000 and, in addition, specify the qualifications of these people in order to qualify for the post of Comelec deputy.

The second observation is that the second member of the so-called Special Board of Election Inspectors, unlike the so-called Comelec deputy who is supposed to be a person who travels from one place to another, is on the contrary, stationary. Instead of peripatetic, the second member will simply stay at the counting center and see to it that the ballots from a particular precinct brought by the Comelec deputy will be properly counted by the counting machine. It seems to me that this second member of the special board of election inspectors will, in effect, be a machine operator. In that case, what would be his credentials for signing the election returns for all the precincts brought by the first member, that is to say, by the Comelec deputy?

In other words, what will the second member of the Special Board of Election Inspectors be certifying to? He will not be certifying to the credibility of the actual voting process in the precinct, but simply to the results of the voting as conducted by the machine.

These are the thoughts that I am requesting the distinguished gentleman to address when we resume this topic tomorrow morning.

Thank you.

The President. It is so noted.

Senator Fernan. We will take note of that, Mr. President.

The President. And the Chair has also observed that the cost of hiring 231,000 additional members of the Board of Election Inspectors, was not factored in the financial estimates earlier submitted to us.

Senator Tatad. It is 230,000 times two, Mr. President.

The President. No, 230,000 plus 1,600.

Senator Santiago. No, Mr. President. It was not included in the tabulations that were presented to our committee by the chairman and members of the Comelec. In that case, it will need a review of the statistics once more.

The President. The Majority Leader is recognized.

Senator Tatad. We have a pending motion, Mr. President.

SUSPENSION OF CONSIDERATION OF S. NO. 2314

The President. Is there any objection? *[Silence]* There being none, the motion to suspend consideration of Senate Bill No. 2314 is approved.

CONFERENCE COMMITTEE REPORT ON S. NO. 1731/H. NO. 9360 (Social Reform and Poverty Alleviation Act)

Senator Tatad. Mr. President, I move that we now consider the Conference Committee Report on the disagreeing provisions of Senate Bill No. 1731 and House Bill No. 9360. This is the Social Reform and Poverty Alleviation Act.

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

Senator Tatad. The Senate panel was chaired by the Senate President, but in his place, I ask that the distinguished gentleman from the Cordilleras be recognized to sponsor the Conference Committee Report.

The President. Sen. Juan M. Flavier is recognized to sponsor this very important landmark bill.

REPORT OF SENATOR FLAVIER

Senator Flavier. Thank you, Mr. President.

This is the joint explanation of the Conference Committee on the disagreeing provisions of House Bill No. 9360 and Senate Bill No. 1731, better known as the Anti-Poverty Bill.

This is the executive summary. The Conference Committee on the disagreeing provisions of House Bill No. 9360 and Senate Bill No. 1731, after having met and fully discussed the subject matter in a conference, hereby report to their respective Houses the following:

1. The conferees agreed to use the House version as the working draft of the conference;
2. Section 2 of both versions were consolidated and integrated;
3. First paragraph of Section 4 was rephrased;
4. Section 5 of the Senate version was adopted as Section 5 of the consolidated version;
5. Section 6 of both versions were consolidated as Section 6 of the consolidated version;
6. Section 7 of the Senate version was adopted as Section 7 of the consolidated version;
7. Section 13 of the Senate version was adopted as Section 10 of the consolidated version. However, the last sentence of the first paragraph was deleted;
8. On the same section, second paragraph, the amount of the Trust Fund was increased to FOUR BILLION FIVE HUNDRED MILLION PESOS (P4,500,000,000) and to be funded from earnings of the Pagcor in addition to appropriations by Congress, voluntary contributions, grants, gifts from both local and foreign sources as may be accepted or decided on by the NAPC;
9. On the same section, a third paragraph was introduced

The bill contains a novel feature. It gives to the Secretary of Justice or any person injured in his person, business, or property the privilege to ask a court to prevent or restrain prohibited activities under this law. The petitioners may ask the court to, among others, force a person to divest himself of any interest in or to restrict his activities or investment in any enterprise engaged in racketeering activity or to order the dissolution or reorganization of a racketeering enterprise.

Moreover, in order to strengthen the evidence-gathering capability of the government against organized crime, the Secretary of Justice can require a person by subpoena to produce documentary materials relevant to a racketeering investigation, before instituting a criminal or civil action. If the person refuses or fails to comply with the demand of the Secretary, the latter may ask the court to enforce the demand.

Notwithstanding any law to the contrary, the Regional Trial Court shall expeditiously hear the civil action by giving it preference over all other civil cases.

Conclusion

The House of Representatives has already passed its version of this bill. Considering the crisis of unabated and undeterred crime in our midst, the Senate should do no less.

Thank you, Mr. President. *[Applause]*

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2387

Senator Tatad. To allow the Chamber to prepare for the interpellation, I move that we suspend consideration of Senate Bill No. 2387.

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

MOTION OF SENATOR TATAD (Additional Members to the Senate Panel on S. No. 2357)

Senator Tatad. Mr. President, I move that we amend the composition of the Senate panel to the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 2357 and its House of Representatives' counterpart—this is the Rent Control Bill—by adding the names of Senators Enrile, Fernan, and Macapagal as additional conferees.

The President. Is there any objection? *[Silence]* There being none, it is so amended.

BILL ON SECOND READING S. No. 2314—Automated Election System (Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 2314 as reported out under Committee Report No. 609.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 2314 is now in order.

Senator Tatad. We are still in the period of amendments. I ask that the distinguished sponsor, and likewise the gentleman from Cebu be recognized.

The President. The senator from Iloilo is recognized.

Senator Santiago. Mr. President, I would like to manifest to our colleagues that an amended copy of the bill dated December 8, 1997 has already been distributed.

Using this copy, we are now on page 2. I have an amendment to make on paragraph 7 which has previously been the subject of an amendment by the distinguished gentleman.

The President. On what page?

Senator Santiago. On page 2, line 11, paragraph 7, if the proponent of the motion to amend is ready?

Senator Fernan. Yes.

Senator Santiago. I am on page 2 of the December 8 version, line 11...

Senator Fernan. May I have a copy of the December 8 version? Thank you.

Yes, page 2.

Senator Santiago. December 8 version, page 2, line 11, paragraph 7.

Yesterday, Mr. President, the gentleman moved to amend by inserting paragraph 7 as it appears in this version.

Senator Fernan. Yes.

Senator Santiago. The amendment will be an amendment by insertion. I move to amend paragraph 7 so that it will read as follows: "NATIONAL BALLOT" REFERS TO THE BALLOT TO BE USED IN THE AUTOMATED ELECTION SYSTEM FOR THE PURPOSE OF THE MAY 11, 1998 ELECTIONS. THIS SHALL CONTAIN THE NAMES OF THE CANDIDATES FOR PRESIDENT, VICE PRESIDENT, SENATORS AND PARTIES, ORGANIZATIONS OR COALITIONS PARTICIPATING UNDER THE PARTY-LIST SYSTEM. THIS BALLOT SHALL BE COUNTED BY THE COUNTING MACHINE.

Senator Fernan. I have no objection, Mr. President.

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

Senator Santiago. I have previously indicated that as the sponsor of the bill, I have no objection to paragraph 8 which was also one of the amendments proposed by the gentleman yesterday.

Senator Fernan. Yes.

Senator Santiago. So, if there is no objection, I will go to paragraph 9—

Senator Fernan. Yes.

Senator Santiago. —with respect to which, I have an amendment to make. Paragraph 9, still on page 2 of our version, starts with line 23. It defines what a "Special Board of Elections Inspector" is.

It was at this point that we adjourned our session and debate last night. I have since thought it over, and I would like to move to amend Section 9 so that it will read as follows:

SECTION 9 - BOARD OF ELECTION INSPECTORS. - FOR THE PURPOSE OF THE MAY 11, 1998 ELECTIONS, THERE SHALL BE A BOARD OF ELECTION INSPECTORS IN EVERY PRECINCT TO BE COMPOSED OF FIVE (5) MEMBERS. THE FIRST THREE (3) MEMBERS SHALL COMPOSE THE REGULAR BOARD TO CONDUCT THE VOTING AND COUNTING OF VOTES IN THE POLLING PLACE. THE FOURTH AND FIFTH MEMBERS SHALL, TOGETHER WITH THE COMELEC REPRESENTATIVE AUTHORIZED TO OPERATE THE COUNTING MACHINE, COMPOSE THE SPECIAL BOARD TO CONDUCT THE COUNTING OF VOTES OF THE NATIONAL BALLOTS IN THE DESIGNATED COUNTING CENTER. THE COMELEC REPRESENTATIVE AUTHORIZED TO OPERATE THE

COUNTING MACHINE SHALL AUTOMATICALLY BE THE CHAIRMAN OF ALL SPECIAL BOARDS FOR A PARTICULAR COUNTING MACHINE.

Senator Fernan. I guess yesterday the Subsection 9 that I proposed was not accepted and so it has been amended. So, I will not insist anymore on the amendment that I earlier proposed to give way to the amended Special Board of Election Inspectors.

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

Senator Santiago. Thank you. Mr. President, I will now move to amend by inserting another paragraph after Section 9. Or possibly, this will have to be a separate section because it will be entitled "QUALIFICATIONS, RIGHTS and LIMITATIONS OF FOURTH AND FIFTH MEMBERS OF THE BOARD OF ELECTION INSPECTORS."

We will recall last night and just a few minutes ago, we have agreed on a Board of Election Inspectors which for the first time in the electoral history of our country will consist of five members because two more members will be added to the traditional or customary three members. Therefore, there is a need to define what should be the qualifications, et cetera, of these two additional members and that is the thrust of this proposed section.

I move to amend by including the following section:

QUALIFICATIONS, RIGHTS AND LIMITATIONS OF FOURTH AND FIFTH MEMBERS OF THE BOARD OF ELECTION INSPECTORS. - NO PERSON SHALL BE APPOINTED AS FOURTH OR FIFTH MEMBER OF THE BOARD OF ELECTION INSPECTORS UNLESS HE OR SHE IS OF GOOD MORAL CHARACTER AND IRREPROACHABLE REPUTATION, A REGISTERED VOTER IN THE CITY OR MUNICIPALITY, HAS NEVER BEEN CONVICTED OF ANY ELECTION OFFENSE OR OF ANY CRIME PUNISHABLE BY MORE THAN SIX (6) MONTHS IMPRISONMENT, OR IF HE HAS PENDING AGAINST HIM OR HER AN INFORMATION FOR ANY ELECTION OFFENSE, OR IF HE OR SHE IS RELATED WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY TO ANY MEMBER OF THE BOARD OF ELECTION INSPECTORS OR THE SPECIAL BOARD, OR TO ANY CANDIDATE FOR A NATIONAL POSITION, OR TO A NOMINEE AS PARTY-LIST REPRESENTATIVE OR HIS OR HER SPOUSE. THE FOURTH AND FIFTH MEMBER SHALL ENJOY THE SAME RIGHTS AND BE BOUND BY THE SAME LIMITATION AS A REGULAR MEMBER OF THE BOARD OF ELECTION INSPECTORS BUT SHALL NOT VOTE DURING THE

PROCEEDINGS OF THE BOARD OF ELECTION INSPECTORS EXCEPT ON MATTERS PERTAINING TO THE NATIONAL BALLOTS.

Senator Fernan. As far as we are concerned, Mr. President, since she is the sponsor and she is going to suggest an additional provision, of course, we have no objection. But what happens now to the Section 10 that we earlier proposed, the Special Comelec Deputy?

Senator Santiago. That would already be covered by the new Section 9.

Senator Fernan. Yes, Mr. President. My only observation is that when we come up with a Board of Election Inspectors of five members, this will mean an additional 460,000 instead of just 230,000 for each polling place, plus the one additional person per voting machine. So, if there are only 1,000 voting machines, there would only be 231,000 persons.

Now, if what is envisioned is the 460,000, I have no objections although that would be more difficult to surmount budgetwise.

SUSPENSION OF SESSION

The President. The Chair declares a one-minute suspension of the session, if there is no objection. *[There was none.]*

It was 5:48 p.m.

RESUMPTION OF SESSION

At 5:57 p.m., the session was resumed.

The President. The session is resumed.

Senator Santiago. Mr. President, as a consequence of the previous decision of this Chamber to implement nationwide automation of the electoral system, it has become necessary to add to the membership of the Board of Election Inspectors. Normally, we have three members of the Board of Election Inspectors. This evening, the Comelec panel—the Comelec chairman and the Comelec commissioners—present in the hall proposed that we should add two more members to the three-member BEI. The proposed function of these two additional members is to escort the ballot box from the precinct to the counting center.

They were queried as to why it is necessary that there should be two additional members and whether it is not possible that we could content ourselves with just one additional member. The

answer is that, physically, it is very unwieldy to carry a ballot box. Two persons normally will be necessary. The second reason is for security, to make sure that there will be at least two people who will check each other as against any illegal or otherwise irregular manipulation or handling of the ballot box.

The main problem is financial. If we add two more members to the three-member Board of Election Inspectors, in all, we shall need a total of P1.3 billion.

During the recent recess, the Comelec has acquiesced to the proposal that instead of adding two more members to the Board, we should only add one more since that would have been the expected expense of only some P500 million. The chairman of the Finance Committee believes that this is an affordable figure.

For that reason, I shall now move that Section 9 should be amended accordingly to reflect the addition of only one more member to the Board of Election Inspectors.

Senator Fernan. Thank you, Mr. President.

The President. Is there any objection?

Senator Gonzales. Mr. President.

The President. The Minority Leader, Sen. Neptali A. Gonzales, is recognized.

Senator Gonzales. Mr. President, may I just seek certain clarification? These two additional members of the Board of Election Inspectors, are they the equivalent of the so-called "Special Board of Election Inspectors" and "Comelec Deputy" that we have been discussing last night?

Senator Santiago. That is correct, Mr. President.

Senator Gonzales. When the sponsor says that they are members of the Board of Election Inspectors, she refers to the regular Board of Election Inspectors now consisting of three members.

Senator Santiago. That is correct.

Senator Gonzales. So they will be the fourth and the fifth members of this Board.

Senator Santiago. That is right.

Senator Gonzales. Would they participate at all insofar as the proceedings of the Board of Election Inspectors, that is, as far as the casting of the ballot by the voters is concerned? Will

they have to be there at the polling place and discharge the duties and functions vested by law in the Board of Election Inspectors? Or will they just be there for the purpose of transporting the ballot box from the precinct to the counting center?

Senator Santiago. In which case, they should rightfully be called the "Board of Election Transportators."

My answer to that question will lie in a proposed section that I also intend to propose as an amendment. It will be an unspecified section number, and it will be entitled "*Duties and Functions of the Fourth and Fifth Members of the Board of Election Inspectors.*"

With the indulgence of the distinguished gentleman, I would like to read this proposed amendatory section.

Senator Gonzales. Yes, Mr. President, because I would really want to know whether they are members of the Board of Election Inspectors to perform the functions as members of the Board, or whether their functions are limited to specific ones.

At any rate, we will wait for the new amendment, Mr. President.

Senator Santiago. I will read this proposed section now.

"DUTIES AND FUNCTIONS OF THE FOURTH AND FIFTH MEMBERS OF THE BOARD OF ELECTION INSPECTORS. - THE FOURTH AND FIFTH MEMBERS SHALL:

1. DURING THE CONDUCT OF THE VOTING IN THE POLLING PLACE:

- a. ACCOMPLISH THE MINUTES OF VOTING FOR THE AUTOMATED ELECTION SYSTEM IN THE PRECINCT; AND
- b. ENSURE THAT THE NATIONAL BALLOTS ARE PLACED INSIDE THE APPROPRIATE BALLOT BOX.

2. UPON THE CLOSE OF POLLS, BRING THE BALLOT BOX CONTAINING THE NATIONAL BALLOTS TO THE DESIGNATED COUNTING CENTER.

3. BEFORE COUNTING OF VOTES, VERIFY WHETHER THE NUMBER OF NATIONAL BALLOTS TALLIES WITH THE DATA IN THE MINUTES OF VOTING.

4. DURING THE COUNTING OF VOTES, ACCOMPLISH JOINTLY WITH THE CHAIRMAN OF THE SPECIAL

BOARD THE MINUTES OF COUNTING FOR THE AUTOMATED ELECTION SYSTEM IN THE PRECINCT.

5. AFTER COUNTING OF VOTES:

- a. CERTIFY JOINTLY WITH THE CHAIRPERSON OF THE SPECIAL BOARD THE RESULTS OF THE COUNTING OF THE NATIONAL BALLOTS FROM THE PRECINCT; AND
- b. BRING THE BALLOT BOX CONTAINING THE COUNTED NATIONAL BALLOTS, INCLUDING THE MINUTES OF VOTING AND COUNTING AND OTHER ELECTION DOCUMENTS AND PARAPHERNALIA, TO THE CITY OR MUNICIPAL TREASURER FOR SAFEKEEPING."

Senator Gonzales. Mr. President, may I?

The President. The Minority Leader is recognized.

Senator Gonzales. Other than accompanying or transporting the ballot boxes from the precinct to the counting center, all of the functions that the sponsor has specified are being normally done by the Board of Election Inspectors. Even the transportation of the ballot boxes to the municipality is also being done by the members of the Board of Election Inspectors.

Suppose there are challenges, Mr. President, which require a decision on the part of the Board, are they members of the Board for purposes of arriving at a decision? This bill does not provide.

There are so many parts of the electoral process under existing laws that are not included here. Therefore, they are deemed to continue, unless they are inconsistent with the provisions of this bill.

On that particular point, there is nothing inconsistent with challenges of a voter so that that provision must presume to continue.

Senator Fernan. With the kind permission of the sponsor.

Senator Santiago. Let me just point out that in a previous section, entitled "*Qualifications, Rights and Limitations of Fourth and Fifth Members of the Board of Election Inspectors*", I did read the proposed provision to state in its last paragraph:

The fourth and fifth members shall enjoy the same

rights and be bound by the same limitations as a regular member of the Board of Election Inspectors but shall not vote during the proceedings of the Board of Election Inspectors except on matters pertaining to the national ballots.

Senator Gonzales. In short, for voting purposes, they are not indeed members of the regular Board of Election Inspectors.

Is my interpretation not correct that existing codes and laws on elections which are not inconsistent with the provisions of this bill have the same force and effect? Is that a correct interpretation?

Senator Santiago. That is the conventional application of the rules on statutory construction, and they will apply.

Senator Gonzales. In short, there is no provision. One of the greatest causes of delay here is disqualification and pre-proclamation proceedings. These are not inconsistent with any provisions of this bill.

Senator Santiago. I do not see any inconsistency, Mr. President.

Senator Gonzales. These are the very things that actually cause delays in proclamation. Since these are not affected by automation, these certainly will now affect the totality of the speed or time to be consumed under this automated system.

Senator Santiago. I do not see any detrimental effect on the speed of proclamation because the fourth and fifth members, or the so-called Special Board of Election Inspectors, shall not vote during the proceedings of the regular board, except if the matter pertains to national positions.

Senator Gonzales. I am done with that, Mr. President. I am merely trying to seek clarification from the lady senator that pursuant to the provisions of this bill, all the provisions on codes and laws pertaining to election not inconsistent with the provisions of this bill if enacted into law will remain.

Senator Santiago. That is correct. That is the normal implication of the separability clause. But please allow me to clarify that in this particular case, existing law provides that there shall be no pre-proclamation controversies over national positions. So the matter will not even arise.

Senator Gonzales. Yes, Mr. President, but how about the local offices?

Senator Santiago. With respect to local offices, we hope

that there will be no delay because the fourth and fifth members have jurisdiction only over cases involving national offices.

Senator Gonzales. As I have said, I am satisfied with the answer of the lady senator about the specific functions of the two additional members of the Board of Election Inspectors. In short, they will act as assistants.

Senator Santiago. That is correct, Mr. President. As I said facetiously a few minutes ago, they should be called the Board of Election Transportators because that is what they will do; they will transport.

Senator Gonzales. And indeed a big chunk of public money for assistance.

Senator Santiago. I am afraid so, Mr. President. Because if we proceed with my original proposal to appoint two additional members, that will entail a cost of P1.3 billion.

Senator Gonzales. That is over and above the P1.2 billion that the lady senator has been mentioning.

Senator Santiago. That is right, Mr. President. Today, the Comelec informs me that in all, the appropriation necessary for the automated counting system will incur, more or less, P6 billion.

Senator Gonzales. Who was it who said that the chairman of the Committee on Finance says that the money will be available?

Senator Fernan. Mr. President, may I comment on the question?

The President. Senator Fernan is recognized.

Senator Fernan. We cannot accept the figure of the Comelec as it is spelled out because we notice certain amounts here which do not really accurately reflect what is needed.

For instance, in the number of voting machines needed, what is listed here is 2,000. Actually, we do not need 2,000 voting machines. At most it is 1,800 per municipality. But if we cluster municipalities, we feel that at most, 1,000 voting machines would be sufficient.

Then in that estimated cost of the services of the Board of Election Inspectors, the existing rate is P400 for each inspector. What is stated here is P1,000. In fact, we requested them if it could be brought to about the same amount of P400 to maintain, or to preserve the existing figure so that it will reduce

considerably from P690 million to P230 million. That would be, instead of P460,000 because it is two for each precinct. Our idea was P230,000 for each of the 230,000 precincts, one for each precinct and the additional would be just one individual for each and every counting machine.

The other amounts stated here are the special Board of Canvassers, where it is stated at P1,500 per canvasser and the chairman at P2,000.

So with these figures, if we make it realistic, I think it is something that the Finance Committee can live with. If the distinguished senator wants a more authoritative statement, Mr. President, then we can hear it from the chairman of the Committee on Finance.

The President. Senator Herrera is recognized.

Senator Santiago. Mr. President, may I just make this prefatory manifestation. I have just been furnished this two-page sheet of statistics by the Comelec.

According to the Comelec, the cost of conducting the automated voting and counting of votes will run to a grand total of P3.914 plus billion. In round figures, P4 billion. But if we appoint the two other additional members of the Board of Election Inspectors, that will entail an additional cost of P1.247 billion. That is why earlier, they gave me a ballpark figure of over P5 billion, that is, if we appoint two more members of the Board of Election Inspectors.

During the recess, the proposal was made to limit the additional member to just one person. That will cut the additional funding from P1.3 billion to some P500 million. But all the same, it seems to me that that would come to about P4.5 billion at this point.

I shall be very happy to hear from the chairman of the Finance Committee in case there has been some mistake.

Senator Herrera. Mr. President, my understanding is that what we need is only P500 million. The amount of P500 million certainly can be sourced if only to have a clean election. But if we are talking of P4 billion or P6 billion, I do not know where to get that money. It is impossible.

Senator Santiago. With the permission of the Senate President, I will clarify that the total cost of conducting the automated voting and conducting of votes according to the Comelec computation is P3.9 billion. But in addition to this amount, Comelec has to add the amount of P1.2 billion if we are going to appoint two more extra members of the Board. If we

are going to appoint only one more member, then we only need P500 million in addition to the P3.9 billion.

The P500 million appropriation, in other words, is only for the additional member of the Board of Election Inspectors.

Senator Herrera. My earlier understanding, Mr. President, when we started the debate is P1.2 billion for the modernization. If we add an additional P500 million, probably, that additional amount can be sourced. But if we are now talking of over P3 billion and then we add P500 million, that is a lot of money. I do not know where to get that amount.

Senator Santiago. In fact, it would come to about P4.5 billion—P3.9 billion for the automated voting system and P500 million for the additional member of the Board of Election Inspectors.

Senator Fernan. If my figures are correct, Mr. President, the appropriation of the Comelec now for 1998 is P2.7 billion. So when the chairman of the Committee on Finance mentioned P500 million, it would be an amount on top of the P2.7 billion which makes it a little over P3.2 billion.

Now, from the P2.7 billion, I understand that P300 million of that is for the operating expenses of the Comelec, if my figures are correct.

Senator Santiago. I have requested the Comelec to justify why they will need P3.9 billion to automate the system and the answer is: "That is because we will be operating two systems concurrently. One, the automated system; and the other, the manual system."

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

Senator Romulo. Mr. President, with the permission of the lady and gentleman on the floor. I would like to request for a clarification, since there is a figure being submitted by the Comelec in order to remove the cloud in the minds of the Senate now.

As I understand it, we had P1.2 billion in the budget and that was what was needed in order to computerize the election so that we would have clean and honest elections. Now, I am hearing several figures: there is P4.4 billion; there is P5.1 billion; and there is even that P6 billion.

Since the Comelec is furnishing the sponsor a breakdown of these figures, may we, perhaps, call a suspension of the session

so that we can go over these figures? I am confused, Mr. President.

Sans a suspension of the session, I would like to ask: First, why did we need more than P6 billion earlier in the discussion; and why is it that it is now P4.4 billion? I understand that with the P4.4 billion, we will only have one additional member in the Board of Election Inspectors. So that instead of three, we would now have four, and with four election inspectors plus the number of equipment or machine that would be needed, that is P4.4 billion.

Now, which is which? I want to clarify that.

Senator Fernan. May I come up with some figures? A while ago, this representation sponsored the budget of the Comelec and the amount stated is P2,736,299,000 for 1998. Out of this amount, P300 million is for modernization and P1,427,000 is for the national and local elections for 1998.

Senator Romulo. One million...

Senator Fernan. Four hundred twenty-seven thousand eight hundred thirty—no, it is P1,427,830,000.

Senator Romulo. I see. All right.

Senator Fernan. Now, the modernization program is P300 million. I understand that they have a savings of P800 million which was previously allocated. So with this, plus the P500 million that the Committee on Finance would be willing to scrape elsewhere, then we have a figure now which I think would be enough to cover the expected expenses.

Senator Romulo. Now, the figure, if we add the P500 million, will be P3 billion, is that correct?

Senator Fernan. Yes, P3 billion.

Senator Romulo. Meaning to say, we have P1.7 billion—P300 million for modernization and P1.4 billion for the local elections which is a total of P1.7 billion. There is P800 million savings which is now in the Comelec. So that is P2.5 billion plus an additional P500 million to be allocated out of the 1998 budget, and that gives us P3 billion. Is that correct, Mr. President?

Senator Fernan. That is correct, Mr. President.

Senator Romulo. Under this P3 billion, which includes the P500 million, are the four members of the Board of Election Inspectors.

Senator Fernan. Yes, the four because the fourth one is the additional.

Senator Romulo. That is right. But in addition to the four members of the Board of Election Inspectors, how many equipment or machine is the gentleman also considering here?

Senator Fernan. The idea is to have one machine for every clustering of municipalities. So at most, 1,000.

Senator Romulo. So this is 1,000 machines which would cost how much?

Senator Fernan. I understand that the old price is \$16,500 per machine.

Senator Romulo. I understand from the Senate President that the \$16,500 is now \$25,000.

Senator Fernan. That is something that should be verified because another report was received that they have lowered the price. But anyway, it is immaterial because we have not pinpointed really the supplier.

Senator Romulo. But this is important, Mr. President, because, as we know, the budget and the appropriation is the one that determines whether we can have the personnel and the equipment. Because without the equipment and the personnel, we will not have this computerized election, we will not have the safeguards against *dagdag-bawas* and so forth and so on. That is why I think we have to really zero-in on the amount that is required.

On the other hand, against this P3 billion, the Comelec had earlier suggested P6 billion. Then it was down to P4.4 billion. I think we should really clarify this because if we miss the appropriation or the budget, then we do not want to get to that situation where we will not be able to computerize.

In the same manner, Mr. President, in the Senate Electoral Tribunal, we have a problem because P400 million has not been provided in the budget. Unless the P400 million is provided in the budget of the Senate Electoral Tribunal, we will not be able to move on with the *dagdag-bawas* case in the Senate Electoral Tribunal.

It is irrelevant whether the parties would continue with the *dagdag-bawas*. What I am just saying is that as far as the Senate Electoral Tribunal is concerned, Senators Pimentel, et al. are still bent on pursuing their case.

I just mentioned that as an aside because if we do not provide

the P400 million, then we will not be able to proceed with the *dagdag-bawas* case in the Senate Electoral Tribunal.

Here, I am concerned about providing the amount that is really necessary to provide the equipment, the machine and the personnel. That is what I would like to be enlightened by the Comelec, because Senator Fernan seems to be sure of his figures. But since there was another figure or two mentioned through the Comelec, I would like to know whether we can reconcile the figure of Senator Fernan and the figure submitted by the Comelec—either the P4.4 billion or the bigger amount of P6 billion.

Thank you, Mr. President.

Senator Fernan. With 1,000 machines, Mr. President, it will cost P610,500,000, assuming the price is maintained.

Incidentally, there is also another point that I would like to dig up which is the total of the Comelec. The original figure included the budget for voters' ID which is P1.2 billion.

Senator Romulo. That is the one which, if included, will jack it up to P6 billion. But going back to the equipment and the personnel. Obviously, as I see it now, there is a difference in the figure of Senator Fernan and the figure submitted by the Comelec because of the clustering.

As I see it, in the case of Senator Fernan, he is clustering several precincts so that he comes up only with 1,000 machines. Perhaps, in the case of the Comelec, they have a different clustering system and that is the reason why it is bigger.

QUESTION OF PRIVILEGE OF SENATOR MACEDA (On Criticisms Regarding Delays in Passage of Bills)

The President. May the Chair intercede on this matter of personal and collective privilege.

The Chair thinks it is now appropriate for the leadership to mention that this prolonged debate really only proves that contrary to the unfair criticisms that this Chamber has received on this issue—especially centered on the principal sponsor and the Senate President—on proposed legislations such as this, it is not as simple as some people outside suggest that we buy 1,600 computers at P16,000 each and that is it. There are a thousand and one details that go with the system. That is why under normal and traditional practices, these are details that are best left to the committee under our committee system that is supposed to decide and recommend all these matters.

If and when suddenly on the floor we try to substitute or

make a major amendment to a committee's findings and decisions, we will go into this process of a very long debate on details. The devil is in the details.

The Chair could see that when the going gets rough, all the Namfrel representatives leave the Chamber. Are they Namfrel representatives on the gallery side? As far as those in the back are concerned, they would like to take credit for this proposal, push it and all, but then the Chair can see that Mr. Concepcion is not here and his usual coterie of nuns and priests who are here to support him.

Anyway, the Chair could not resist but mention that because as we all know, Senator Santiago and this representation have been the subject of unfair criticism. They are criticizing us as if we were intentionally delaying this bill. No, not tonight and the last few days. They have seen that before we can adopt a system such as this; there are details to be discussed.

How many times in the past have we been criticized after passing a law? They say, "What kind of legislators are you? You have passed a defective, incomplete law."

SUSPENSION OF SESSION

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

It was 6:28 p.m.

RESUMPTION OF SESSION

At 6:30 p.m., the session was resumed.

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

SUSPENSION OF CONSIDERATION OF S. NO. 2314

Senator Tatad. Mr. President, I move that we suspend consideration of Senate Bill No. 2314.

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 Committee Report No. 810 on Senate Bill No. 2383, entitled

reasonable amount for hazard pay.

Senator Roco. Thank you, Mr. President. Last year, we were able to get approval for a very small amount of P5 million to pay for insurance, for legal representation of the teachers. I think it is still there—legal representation when they undertake poll duties. We were hoping that would be P25 million, but, as I remember, that became only P5 million.

In the present budget as proposed, is there a similar fund for legal assistance of the teachers?

Senator Angara. Yes, Mr. President. The legal fund of P5 million still remains but it is in the Comelec budget.

Senator Roco. I see. But, is there any legal obstacle to putting in something also by the DECS? The problem with the legal representation is, there might be a conflict between the teacher and the Comelec.

Senator Angara. Yes, Mr. President. But the rationale—I am not rejecting the gentleman's theory—for putting it in the Comelec is that the legal defense of a teacher performing his or her task in election matters ought to be shouldered by the State, and therefore the fund was placed under the Comelec. So it was, in a way, a definition of scope of the legal defense fund.

Senator Roco. That is correct, Mr. President, and I agree. In fact, we initiated that concept last year. But since then, in our discussions with the teachers, they have pointed to instances where the Comelec is claiming that the teacher is the one who cheated, and the teacher is saying that it is the Comelec which cheated. Therefore, we have a situation where the Comelec, which pays the fees, may not be too happy paying the fees of the teachers whom they are blaming. And it is very possible that the teacher may be telling the truth, as it is equally possible that the Comelec may be telling the truth.

In such an instance, Mr. President, we must give the DECS, pursuant to its duty to protect the teachers, some fund so that we can also have legal representation when there is a conflict between the teacher and the Comelec. Would this be acceptable?

Senator Angara. That qualification would be acceptable, Mr. President. If the distinguished gentleman can help us formulate that qualification, we would be happy to add it to the present language of the item which is "legal assistance for teachers in relation to the performance of election duties," which is quite broad. It does not go into the question of whether the teacher is the one who cheated or not.

Senator Roco. As I understand it, the payment for poll duties is also with the Comelec.

Senator Angara. That is correct, Mr. President.

Senator Roco. I understand from the teachers that while the Comelec recommended P1,000 something, it is down to P400 again for the teachers for the poll duties. Again, there is a common interest here in protecting and remunerating the teachers for their poll duties.

Will the distinguished chairman help us out with the other committees so that the appropriate emolument is given to the teachers for poll duties which will be forthcoming next year?

Senator Angara. Certainly, Mr. President. We will support that kind of initiative.

Senator Roco. Thank you, Mr. President. Let me just review my notes if there are some concerns which I have not been able to touch on. I guess those are the policy questions and concerns that I wanted to raise.

We want to thank the chairman for the patience, time and the answers.

Senator Angara. We are grateful to the distinguished gentleman, Mr. President, for clarifying and elucidating some of the points in this budget.

Senator Roco. Thank you, Mr. President.

SUSPENSION OF CONSIDERATION OF
H. NO. 10095

Senator Tatad. Mr. President, there are still a few senators who have reserved their right to interpellate. For the time being, I would like to give way to another urgent bill to allow the sponsors to take a breather. So I move that we temporarily suspend consideration of House Bill No. 10095.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the motion is approved.

Senator Tatad. May we just request the resource persons from the executive department to stay in place.

BILL ON SECOND READING
S. No. 2314 - Automated Election System Act of 1998
(Continuation)

Senator Tatad. Mr. President, I move that we resume

consideration of Senate Bill No. 2314 as reported out under Committee Report No. 609.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 2314 is now in order.

Senator Tatad. Mr. President, we are still in the period of amendments. I ask that we recognize the distinguished sponsor, Sen. Miriam Defensor Santiago, and also the gentleman from Cebu, Sen. Marcelo B. Fernan.

The Presiding Officer [Sen. Flavier]. Senators Santiago and Fernan are recognized.

Senator Santiago. Mr. President, in the spirit of guarded optimism, the Committee is happy to report that all major obstacles to the automated counting bill appeared to have been hurdled with remarkable goodwill and solidarity on all sides.

At our last session, the Comelec presented a cost estimate of some P5 billion to implement the system. This estimate was very high because it included a costing of some P1.2 billion for voters' ID cards. Furthermore, it included proposed pay increases for election inspectors who are normally public school teachers. However, at the request of the committee, the Comelec has since revised downward its costing estimate.

At present, the Comelec has on hand some P840 million. After a determined cost-cutting effort, the Comelec has signified that it is now ready to attempt to implement nationwide the automated voting system for the bare bones amount of P1.2 billion. Thus, this financial kink has been ironed out. Hence, I will now proceed to my individual amendments using the December 9 version of the bill. The amended copy as of December 9 is now being distributed by the Senate pages.

The amendments I will propose this evening are mostly meant to design the system around the new expanded composition of the Board of Election Inspectors. The usual three-person BEI will remain in the precinct to count the votes for local candidates using the old manual system. There will be a new fourth member of the BEI who will transport the ballot box to the counting center usually in the municipal hall. In the counting center, there will also be a new fifth member of the BEI who will operate the counting machine for national candidates.

SANTIAGO AMENDMENTS

I will now proceed with my individual amendments following the usual method of referring to the page number and the line number.

At our last session, I had already reached Section 2, and that is where I begin tonight.

On Section 2, which is subtitled *Definition of Terms*, I will refer to page 3, lines 1 to 8.

Mr. President, I move to amend by deletion the entire paragraph which is now designated in the latest copy as paragraph 10.

The reason is that, at our last session, we approved my amendment defining the Board of Election Inspectors and referring to the two new additional members as the fourth member and the fifth member, respectively. Therefore, there is no longer a need to define the term "Comelec deputy."

This is the reason I now move that we delete the entire paragraph 10 in order that it can be reconciled with paragraph 9 which we have already approved.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Santiago. Still on page 3, line 16, I move that we delete the phrase "component city/municipality or each" and to put a period (.) after the word "municipality."

Thereafter, in line 17, I move to delete the phrase "constituting a district/province."

The reason for this motion is that for the purpose of issuing the statement of votes, the component city or municipality and the district or province are subsumed under the city or municipality.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Santiago. Still on page 3, line 18, I move that we insert the words DISTRICT/PROVINCIAL between the words "municipal" and "certificate."

In the same spirit, in line 20 after the word "municipality", insert the phrase DISTRICT/PROVINCE, AS THE CASE MAY BE.

Finally, still on page 3, I move that we delete the whole paragraph starting from line 21 to line 23.

The reason for all of these motions to amend is that No. 14 or lines 21 to 23 are already integrated in No. 13.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Santiago. Still on page 3, Section 3, subtitled "Authority to Use an Automated Election System."

I will turn to page 4, line 8. I move that we insert in line 8, after the word "AND" the following phrase: AND PARTIES, ORGANIZATIONS OR COALITIONS PARTICIPATING UNDER THE PARTY-LIST SYSTEM, and then delete the term "PARTY-LIST REPRESENTATIVE."

The reason for this motion to amend is: In the party-list system, voters will vote for the names of parties, organizations or coalitions and not for candidates or representatives.

Senator Fernan. Mr. President, since that was my amendment, I would like to state that I have no objection.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Santiago. On page 4, I move that we delete the whole sentence on page 4, from lines 11 to 14, for the reason that it is redundant because it is already provided for in lines 5 to 8.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Santiago. I now go to Section 8.

Senator Fernan. May I interrupt the distinguished chairperson.

The Presiding Officer [Sen. Flavie]. Senator Fernan is recognized.

Senator Fernan. The senator is now proceeding to Section 8.

Senator Santiago. Section 8, page 10 of this version.

Senator Fernan. Mr. President, on Section 3, I understand that there is an amendment filed by Senator Magsaysay affecting Section 3, paragraph 2.

The Presiding Officer [Sen. Flavie]. What page would that be?

MAGSAYSAY AMENDMENT BY SENATOR FERNAN

Senator Fernan. That would be on page 4. The insertion

would be found in line 15. In line 15, after the word "PROCURE", insert the words BY PURCHASE, LEASE OR OTHERWISE.

The Presiding Officer [Sen. Flavie]. What does the sponsor say?

Senator Santiago. In other words, page 4, line 15 will now read: PURPOSE OF THIS ACT, THE COMMISSION IS AUTHORIZED TO PROCURE BY PURCHASE, LEASE OR OTHERWISE.

If that is the case, I have no objection.

The Presiding Officer [Sen. Flavie]. Is there any other objection? [Silence] There being none, the amendment is approved.

FERNAN AMENDMENTS

Senator Fernan. In the same paragraph, same page, line 18, after the words "public bidding", insert the words OF VENDORS, SUPPLIERS OR LESSORS.

Senator Santiago. I have no objection.

The Presiding Officer [Sen. Flavie]. Is there any other objection? [Silence] There being none, the amendment is approved.

Senator Fernan. In line 19, after the word "NOTIFIED", insert the phrase OF AND ALLOWED TO OBSERVE BUT NOT TO PARTICIPATE IN THE BIDDING.

The Presiding Officer [Sen. Flavie]. What does the sponsor say?

Senator Santiago. I have no objection.

The Presiding Officer [Sen. Flavie]. Is there any other objection? [Silence] There being none, the amendment is approved.

Senator Fernan. Thank you, Mr. President. The next sentence is in line 19, same page 4, after the words "IN SPITE OF," insert the phrase ITS DILIGENT EFFORTS TO IMPLEMENT THIS MANDATE IN, that is the last word.

The Presiding Officer [Sen. Flavie]. What does the sponsor say?

Senator Santiago. I have no objection.

The Presiding Officer [Sen. Flavie]. Is there any other objection? [Silence] There being none, the amendment is approved.

Senator Fernan. There is nothing more on page 4, Mr. President.

The Presiding Officer [Sen. Flavie]. Do we now go to page 10?

Senator Santiago. I am sorry, it is page 11 I am referring to, Mr. President.

The Presiding Officer [Sen. Flavie]. Yes.

Senator Santiago. Page 11 in Section 8.

The Presiding Officer [Sen. Flavie]. Yes, please proceed.

Senator Santiago. In line 8, I move to insert....

Senator Fernan. Mr. President, may I again interrupt? Before we reach Section 11, may I propose an amendment found on page 8, Section 5.

The Presiding Officer [Sen. Flavie]. Yes, please proceed.

Senator Fernan. My amendment is for the deletion, starting in line 15 of page 8 of the provision "Provided, That such counting machines, computer equipment, devices and materials shall be later and improved models of those used in the 1996 ARMM elections."

Mr. President, the reason for my amendment is that this requirement is already provided in Section 4—requirement as to the kind of counting machines that should be acquired.

The Presiding Officer [Sen. Flavie]. In my copy that is already bracketed.

Senator Fernan. Yes, Mr. President. That is bracketed for deletion.

The Presiding Officer [Sen. Flavie]. So, the gentleman wants to put it on record that we are now deleting the same?

Senator Fernan. Yes, Mr. President.

The Presiding Officer [Sen. Flavie]. What does the sponsor say?

Senator Santiago. It was previously approved that this

section shall be deleted. So, for clarity's sake, I confirm that I do not object.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any other objection? [Silence] There being none, the amendment is approved.

Senator Fernan. Next is the paragraph following the paragraph just deleted starting with line 18 on page 8. I also propose an amendment for the deletion of the following: "For this purpose, the Commission may create an advisory council with members coming from any recognized association of information technology practitioners, media, non-government organizations, and such other agencies as may be necessary upon determination by the Commission."

The reason for this amendment is that this advisory council is already provided on page 7, lines 17 up to 26.

The Presiding Officer [Sen. Flavie]. Does the sponsor confirm that deletion?

Senator Santiago. I confirm.

The Presiding Officer [Sen. Flavie]. Is there any other objection? [Silence] There being none, the amendment is approved.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavie]. Shall we go to page 10 now or page 11, or is there an anterior amendment?

Senator Fernan. Yes, Mr. President, there is an anterior amendment found on page 9.

On page 9, lines 20 to 27, the proposal is to delete lines 20 to 27 which reads: "For this purpose, the Commission, in collaboration with the Department of Science and Technology, shall establish an independent Technical Ad Hoc Evaluation Committee, here known as Committee, the composition of which shall be approved by the political parties and candidates and the citizens' arm. The Committee shall certify that the machines have a demonstrable capacity to distinguish between genuine and spurious ballots."

Senator Santiago. Mr. President, before I comment on this proposed amendment, may I please know what is the reason for the amendment?

Senator Fernan. The reason for the amendment is that, in

the composition of the Advisory Council, there is someone representing the Department of Science and Technology. There is no need for this particular Ad Hoc Evaluation Committee since there is another advisory committee that will also pass upon the soundness of the machine.

Senator Santiago. May I please know what section is being referred to? I imagine that it must be anterior to this Section.

Senator Fernan. Yes, that is referred to in Section 4, page 7, lines 17 to 26, which reads as follows:

FOR THIS PURPOSE, THE COMELEC SHALL CREATE AN ADVISORY COUNCIL TO BE COMPOSED OF THE CHAIRMAN OR COMMISSIONER DESIGNATED TO REPRESENT HIM AND TECHNICAL EXPERTS FROM THE DEPARTMENT OF SCIENCE AND TECHNOLOGY, THE INFORMATION TECHNOLOGY FOUNDATION OF THE PHILIPPINES, THE UNIVERSITY OF THE PHILIPPINES, THE NATIONAL TELECOMMUNICATION COMMISSION, AND A REPRESENTATIVE OF THE PRIVATE SECTOR RECOMMENDED BY THE TELECOMMUNICATIONS INDUSTRY. THE COUNCIL MAY AVAIL ITSELF OF THE EXPERTISE AND SERVICES OF RESOURCE PERSONS OF KNOWN COMPETENCE AND PROBITY.

Senator Fernan. This is part of Sen. Neptali Gonzales' amendment.

Senator Santiago. I am sorry, Mr. President. I object to this amendment. I have no objection however if we consolidate both these paragraphs that are sought to be deleted and the paragraph that has just been read, subject to style. We can consolidate these either under page 7, No. 23, or in its present position on page 9, beginning with line 20.

Senator Fernan. Well, with that counterproposal, Mr. President, this representation will no longer press his amendment.

The Presiding Officer [Sen. Flavie]. The amendment is withdrawn.

Senator Fernan. It also goes with respect to the following paragraph also found on page 9, from line 28 up to page 10, lines 1 and 2—if that can also be consolidated with the others, then there is no need for this amendment anymore.

Senator Santiago. Yes, please. Just to consolidate it either way.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavie]. So subject to style, they shall be consolidated.

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

Page 11, is there any amendment?

Senator Santiago. I am sorry. It will take some time because this version was handed to me only a few minutes ago.

If we are now on page 11, I will have to move, as I promised during the period of interpellations to the distinguished Minority Leader, for the deletion of lines 1 to 3 which states: "Provided, That a candidate who is aspiring for an elective office other than his incumbent position shall be deemed resigned forty-five (45) days before the election."

I take the liberty of refreshing the memory of our colleagues that Senator Gonzales pointed out No. 1, that in his view, this proviso is a rider.

I do not necessarily agree with the view, but I agree with his observation that possibly most, if not all, except for me, members of the Senate are opposed to this provision for the reason that it requires them to resign from the Senate when they run for president.

If this is going to delay the passage of this bill, then I will have no objection, and as I promise the Minority Leader, I now move to delete lines 1 to 3.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the motion is approved.

Senator Fernan. May I refer to an anterior amendment, Mr. President.

The Presiding Officer [Sen. Flavie]. Senator Fernan is recognized.

Senator Fernan. With the deletion of Section 3, the paragraph starting from lines 11 up to 14, page 4, ending with the word "ELECTIONS", I notice that we also deleted the phrase IN ALL AREAS WITHIN THE COUNTRY.

To avoid any misinterpretation, may I propose an amendment that we insert the phrase IN ALL AREAS WITHIN THE COUNTRY in line 7, between the words "applicable" and "only".

Thus, it will read: "x x x the System shall be applicable

IN ALL AREAS WITHIN THE COUNTRY only FOR THE POSITIONS OF PRESIDENT, VICE PRESIDENT, SENATORS AND PARTY-LIST REPRESENTATIVE.”

Senator Santiago. There is no objection, Mr. President.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved. Back to page 11.

Senator Santiago. On page 11, lines 4 to 6, the following paragraph has been underlined implying that there has been a prior move to amend this paragraph. I do not wish to so delete it. It provides: “The ballot shall contain serial numbers and/or corresponding codes and such other security marks as the Commission may deem appropriate.”

I remember that it was no less than the Secretary of the Department of Science and Technology, during the committee hearings, who proposed that this or a similar provision should be included in the bill. And if there is any objection to it, I shall be happy to listen to the objection.

Senator Fernan. Mr. President, the reason we wanted to delete this particular provision found in lines 4 to 6 on page 11 is that when we say, “The ballot shall contain serial numbers and/or corresponding codes and such other security marks as the Commission may deem appropriate,” the reason given by some officials of the Comelec is that the serial number is printed on the ballot stubs. Otherwise, the votes can be traced to the voter. That is the reason.

Senator Santiago. I understand and I withdraw my objection. But I would like to say that referring to page 11, lines 16 to 20, I believe it is desirable to retain the present paragraph which is underlined. It states: “To prevent the use of fake ballots, the Commission through the Committee shall ensure that the serial number on the ballot shall be printed in magnetic ink that shall be easily detectable by inexpensive hardware and shall be impossible to reproduce on a photocopying machine.”

It is basically repeated in the next paragraph. So it becomes a question of which paragraph we prefer.

For purposes of expediting this debate, I will simply move, Mr. President, that these two paragraphs should be consolidated so as to express the common sentiment.

Senator Fernan. Thank you very much. I fully agree with it, Mr. President.

The Presiding Officer [Sen. Flavie]. Before that, may we take it one by one? We first delete lines 4 to 6 on page 11.

Senator Fernan. Yes.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved.

Meanwhile, we shall consolidate lines 16 to 24, subject to style.

Senator Santiago. Yes, please.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved.

The sponsor may continue.

Senator Santiago. Still on page 11, line 8, I move to insert between the words “Pilipinas” and “under” the phrase AT THE PRICE COMPARABLE WITH THAT OF PRIVATE PRINTERS.

And so it will read now: “The official ballots shall be printed by the National Printing Office and/or the Bangko Sentral ng Pilipinas AT THE PRICE COMPARABLE WITH THAT OF PRIVATE PRINTERS under proper security measures” et cetera.

The reason for this motion is that Comelec experience apparently shows that the National Printing Office always charges higher prices than those charged by private printers.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Santiago. I shall go to Section 10 on page 12 unless there are anterior amendments.

The Presiding Officer [Sen. Flavie]. There is an underlined line on page 11, line 28.

Senator Fernan. Yes, Mr. President. Actually, it is a difference of just one ballot.

Yes, lines 27 and 28 of the same page 11, instead of three ballots, they are asking for additional—four ballots per precinct.

Senator Santiago. I remember that this was given high significance by the Minority Leader during his interpellation. I am no longer sure because it was not defined at that time whether the consensus is to abolish all excess ballots or

whether we shall still allow the usual practice of permitting certain number of excess ballots, the number to be determined.

Senator Gonzales. Mr. President.

The Presiding Officer [Sen. Flavier]. Sen. Neptali A. Gonzales is recognized.

Senator Gonzales. With the kind permission of the gentleman and the lady senator on the floor. Indeed, in the course of my interpellation, I brought up this point in connection with the provision in this bill which prohibits the replacement of a ballot by a voter who, for one reason or another, had voided his ballot. I thought it was too harsh.

Under our existing Code, a voter is not allowed to replace his ballot more than twice. But here, it is an absolute prohibition which will result in the disenfranchisement of the voter. That is why I suggested that a voter may be allowed to replace his ballot once or one time. That is the reason I said there is no reason for us not to increase the number of ballots to cover these contingencies. That is the incident that the distinguished sponsor of this bill, chair of the committee, has mentioned.

Senator Santiago. In summary, therefore, may I be clarified on the distinguished Minority Leader's position. Should we allow extra ballots or not?

Senator Gonzales. Yes, Mr. President. Disenfranchisement of a voter is too harsh a penalty for one who, probably because of ignorance or any honest mistake, spoils his ballot.

Senator Santiago. Thank you, Mr. President. Then I am clarified. The explanation provided by the Comelec for this provision is that the extra three ballots are actually intended for the three members of the Board of Election Inspectors in case they wish to vote in that particular precinct.

So I have no objection if the distinguished gentleman wishes to amend this by changing the word "three" with the word FOUR.

Senator Fernan. Yes, to accommodate the four board members.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the amendment is approved.

We are on page 12.

Senator Santiago. On page 12, Section 10, entitled "Ballot Box," I move to delete the word "place" in line 4. At present,

the provision states: "There shall be in each precinct place." I simply move to delete the word "place" because "precinct" is the exact word utilized by the Election Code.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the motion to delete the word "place" is approved.

Senator Santiago. I have an underlined paragraph here in my version. The underlined provisions are proposed amendments of the distinguished vice chair of the Committee. I would like to know what is the purpose for underlining. Is this a proposal to delete the paragraph providing for two ballot boxes for each precinct?

Senator Fernan. The proposal is the insertion of this particular provision starting from lines 7 to 9. Since we are going to have two kinds of ballot boxes—one for national and the other for local ballots—there should be a provision that only for the May 11, 1998 elections there shall be two ballot boxes for each precinct: one for the national ballots and one for the local ballots.

Senator Santiago. That is perfectly logical. I have no objection, Mr. President.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Santiago. I am now moving down to Section 11, subtitled "Merger or Clustering of Precincts." Specifically, I refer to line 16 which states, "shall not have more than four hundred (400) voters." I move to delete the word "four" and the figure 400 and change these words to the word SIX and the figure to 600," respectively.

My reason for this motion is that the maximum number of registered voters per precinct is 200. Therefore, the maximum number of voters for three precincts will be 600.

Senator Gonzales. Mr. President.

The Presiding Officer [Sen. Flavier]. Senator Gonzales is recognized, with the permission of the others.

Senator Gonzales. Will I be permitted to intervene on this matter, with the kind consent of Senators Fernan and Santiago?

Senator Santiago. May I please request the distinguished Minority Leader to activate the sound system?

Senator Gonzales. Yes, Mr. President. I cannot understand the reason behind allowing and even encouraging merging and clustering of precincts since under existing laws, as the lady senator has pointed out, there is a limit in the number of voters in a precinct. The purpose of that is to give every time and opportunity for each registered voter to be able to cast his vote, which may be difficult if we have a large number of voters. And yet departing from the established law, we are now providing for merger or clustering of precincts. I would want to know the reason.

Senator Santiago. As we could surmise, the reason Comelec wishes to cluster precincts is to promote administrative efficiency and to reduce costs. When it indulges clustering, Comelec maintains the identity of the precinct. I am told that if we are going to adopt the automated counting system, 600 would still be manageable.

Senator Gonzales. Mr. President, I doubt that very much. This is something new, and not every voter is fully aware of the same, especially in the elections in 1998 where actually two ballots will be accomplished—the national ballot and the local ballot.

If we will recall, Mr. President, under the existing Election Code, there is a provision that allows the division of a precinct into two or more precincts, because it may happen that a precinct may grow in number of registered voters. This is consistent with the policy of the law ever since—allow a division, but subject to the following requirements that the so-called mother and daughter precincts be located in the same building or premises, and that the list of voters be divided among these divided precincts in the alphabetical order.

So we could see that like a continuous thread in our law, the purpose really is to limit the number of voters in a precinct, but now we are making the voting more complicated. It is actually two elections being held, and yet we encourage the merger and clustering of precincts.

Senator Santiago. I have no strong emotions about the merger or clustering of precincts in the light of the irresistible arguments raised by the distinguished Minority Leader. In any event, our budgetary costing has taken into consideration the number of 230,000 precincts. So whether we cluster or not, the budgetary estimate would still hold true.

Senator Gonzales. They are not buying anything for the precinct, Mr. President. Regardless of the number of precincts, they will print the same number of ballots. Of course, they will employ more members of the BEI, but that is a part of the electoral process.

Senator Santiago. That is correct. In fact, I was going to say that Comelec takes the position that it is acting out of anxiety or concern for the possibility that there might not be enough schoolteachers to constitute Boards of Election Inspectors for all the 230,000 precincts. And it gives them a feeling of security if we have a provision for merger or clustering because in that way, they will not have to stretch the population of public schoolteachers to the limit.

Senator Gonzales. That is on one hand. With 600 voters, assuming that 90% of them would vote, that would be about 450. In a day, where the polls are supposed to open at seven o'clock and end at three o'clock in the afternoon, and considering the tendency of Filipino voters to vote at the last minute, I am afraid many voters would not be able to cast their votes.

Senator Santiago. I have always bowed to the superior political experience and wisdom of the distinguished Minority Leader. So if he has very strong convictions about this particular deletion, I will not raise any objection. Although I will raise the point that there have been instances when some precincts have had only 10 or 15 voters. This makes it practical to cluster precincts when a precinct is underpopulated in terms of voters. We could possibly set a limit of, let us say, 200.

Senator Gonzales. I do not call it clustering, Mr. President. We abolish one precinct and add the number of registered voters in another that can accommodate them so long as the territorial extent of the precinct would allow or consider this practicable. But I do not call that clustering.

Senator Santiago. Does the gentleman have a term to propose?

GONZALES AMENDMENT

Senator Gonzales. Yes, Mr. President. With the kind permission of the distinguished sponsor, I will move for the deletion of Section 11. And that is from lines 10 to 16, page 12 of the bill.

Senator Santiago. Would there be a term for a possible consolidation or addition of precincts when there are not enough voters in a single one?

Senator Gonzales. Yes, Mr. President. The precinct can be abolished and the voters added to the nearest contiguous precinct.

Senator Santiago. Would it not be practical, for example, to set a limit of, say, 200 voters per precinct and below that, if there are less than 200, then we could provide for the clustering of precincts?

Senator Gonzales. The way I look at it, Mr. President, what troubles me is, when we have a large number of voters in a precinct, I am not too sure that the maximum provided by law for voters in a precinct is 200. There may be many voters who will be disenfranchised.

Senator Santiago. Republic Act No. 8189, Mr. President.

Senator Gonzales. Yes, Mr. President. I recall before that it was at 300. So if it is 200, I take it then.

We could see the intention of one Congress to another Congress, and that is not to create overcrowded precincts. The tendency is to always reduce the number.

Senator Santiago. Mr. President, I reiterate, for the record, that I have always found Sen. Neptali Gonzales irresistible. I therefore withdraw my objection. *[Laughter]*

Senator Gonzales. *Pagka ganiyan ang usapan, nadidis-armahan ako. [Laughter]*

The Presiding Officer [Sen. Flavie]. Does the Chair understand that there is a motion to delete Section 11, from lines 10 to 15?

Senator Santiago. I have no objection, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Gonzales. I thank the distinguished sponsor, Mr. President.

The Presiding Officer [Sen. Flavie]. Will the sponsor proceed please.

Senator Santiago. I am still on page 12. I am now down to Section 12 which begins in line 17, and is subtitled "Procedure in Voting."

The first sentence reads: "The voter shall be given a ballot by the Chairman." I move to amend by addition so as to add the phrase CHAIRMAN OF THE BOARD OF ELECTION INSPECTORS.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Santiago. I now go down to Section 13.

Senator Fernan. I have an anterior amendment, Mr. President.

The Presiding Officer [Sen. Flavie]. There is an anterior amendment from Senator Fernan.

FERNAN AMENDMENTS

Senator Fernan. Before proceeding, Mr. President, so that we will not keep on repeating this every time the word "his" appears, my amendment is to add a slash (/), then the word HER. It is an omnibus amendment that every time the word "his" appears, we add /HER so that it will all read, "To accomplish HIS/HER ballot," "Fix HIS/HER signature" and then "Drop HIS/HER ballot in the ballot box."

The Presiding Officer [Sen. Flavie]. What does the sponsor say?

Senator Santiago. I find that eminently supportable because it seeks to eliminate gender-based language in the writing style of the Philippine Senate.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Fernan. From lines 27 to 31 of the same Section 12 on page 12, the proposed amendment is for the insertion of another paragraph which would read as follows:

FOR THE PURPOSE OF THE MAY 11, 1998 ELECTIONS, EACH VOTER SHALL BE GIVEN ONE (1) NATIONAL AND ONE (1) LOCAL BALLOT BY THE CHAIRPERSON. THE VOTER SHALL, AFTER CASTING HIS/HER VOTE, PERSONALLY DROP THE BALLOTS IN THEIR RESPECTIVE BALLOT BOXES.

Senator Santiago. I have no objection, Mr. President.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

We are on page 13.

Senator Santiago. Page 13, Section 13, lines 16 to 17. Just to conform with an earlier amendment, I move to delete the phrase "PARTY-LIST REPRESENTATIVES" and substitute that with the phrase PARTIES, ORGANIZATIONS OR COALITIONS PARTICIPATING IN THE PARTY-LIST SYSTEM.

Senator Fernan. We accept that amendment to our amendment, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Fernan. But then as corrected now, the proposal for the amendment found on page 13, from lines 14 to 23, will now read as follows:

FOR THE PURPOSE OF THE MAY 11, 1998 ELECTIONS, THE CHAIRMAN SHALL PUBLICLY ANNOUNCE THAT THE VOTES FOR PRESIDENT, VICE-PRESIDENT, SENATORS AND PARTIES, ORGANIZATIONS OR COALITIONS PARTICIPATING IN THE PARTY-LIST SYSTEM SHALL BE COUNTED AT A DESIGNATED COUNTING CENTER IN THE PROVINCE. DURING THE TRANSPORT OF THE BALLOT BOX CONTAINING THE NATIONAL BALLOTS AND OTHER DOCUMENTS, THE COMELEC DEPUTY SHALL BE ESCORTED BY REPRESENTATIVES FROM THE ARMED FORCES OF THE PHILIPPINES OR FROM THE PHILIPPINE NATIONAL POLICE, CITIZENS' ARM, AND IF AVAILABLE, REPRESENTATIVES OF POLITICAL PARTIES.

Senator Santiago. In principle, I have no objection, but I would like to propose the following amendments:

In line 20, delete the words "COMELEC DEPUTY" and substitute it with the phrase FOURTH MEMBER OF THE BOARD.

Senator Fernan. We accept the amendment, Mr. President.

Senator Santiago. In line 23, add the word CANDIDATES.

Senator Fernan. We accept, Mr. President.

The Presiding Officer [Sen. Flavier]. As amended, is there any objection? [Silence] There being none, the amendment is approved.

We are on page 14.

Senator Fernan. With the permission of the Chair, on page 14, lines 6 to 17, the amendment is for the insertion of a paragraph which would read as follows:

FOR THE PURPOSE OF THE MAY 11, 1998 ELECTIONS, THE COMMISSION SHALL DESIGNATE A CENTRAL COUNTING CENTER(S) WHICH SHALL BE A PUBLIC PLACE WITHIN THE PROVINCE, CITY OR MUNICIPALITY, AS IN THE CASE OF THE NATIONAL CAPITAL

REGION AND IN HIGHLY URBANIZED AREAS. THE COMMISSION MAY DESIGNATE OTHER COUNTING CENTER(S) PER LEGISLATIVE DISTRICT WHERE THE NATIONAL BALLOTS CAST FROM VARIOUS PRECINCTS OF DIFFERENT MUNICIPALITIES SHALL BE COUNTED. THE COMMISSION SHALL POST PROMINENTLY A NOTICE THEREOF, FOR AT LEAST FIFTEEN (15) DAYS PRIOR TO ELECTION DAY, IN THE OFFICE OF THE ELECTION OFFICER, ON THE BULLETIN BOARDS AT THE MUNICIPAL HALL AND IN THREE (3) OTHER CONSPICUOUS PLACES IN THE MUNICIPALITY.

Senator Santiago. I will have a very serious objection to this proposed amendment, but please forgive me, Mr. President. I would like to refer to an anterior line, particularly page 14, line 8. I move to delete the word "PROVINCE" for the reason that all centers for the counting of votes are within cities and municipalities.

Senator Fernan. We have no objection to the deletion of the word "PROVINCE."

The Presiding Officer [Sen. Flavier]. Subject to that amendment, is there any objection? [Silence] There being none, the amendment is approved.

Senator Santiago. Now, I will have to raise an objection still on page 14 from lines 10 to 17 which refers to the provision starting from "THE COMMISSION" until the end of the paragraph.

In other words, my amendment seeks to prevent clustering or counting by legislative districts. I move to delete the words "LEGISLATIVE DISTRICT" and instead use the words MUNICIPALITY/CITY.

The reason for this amendment is that it has been, in effect, pointed out on another topic by the Minority Leader that clustering or counting by legislative district would create serious problems for the Comelec. The Comelec, in fact, characterizes it as a potential nightmare of implementation because, for example, it would cause traffic problems, possibly hundreds, if not more, people would be queuing in line and necessarily this will lead to confusion and to problems of transportation, among others.

In connection with this objection, it might be appropriate to point out that in one municipality, there would be anywhere from 500 to 6,000 precincts. In one legislative district, there would be anywhere from five to eight municipalities. In addition, we would have to consider that there would be a proportionate increase in the number of teachers, watchers, members of

citizens' arms, the media and security people.

This is the reason I believe it would be wiser to use the phrase MUNICIPALITY/CITY instead of the words "LEGISLATIVE DISTRICT" since the Comelec interposes vigorous objection to clustering by legislative district.

The Presiding Officer [Sen. Flavie]. Senator Fernan is recognized.

Senator Fernan. Did the distinguished chairperson note the use of the word "may"? In other words, it is not really mandatory but it is left to the Commission to designate other counting centers.

Senator Santiago. With that clarification that the word "MAY" indicates that the matter is left to the discretion of the Comelec, then I withdraw my objection.

Senator Fernan. Thank you very much.

The Presiding Officer [Sen. Flavie]. The objection is withdrawn.

Senator Fernan. The last three lines of page 14, unless there is an anterior amendment.

Senator Santiago. May I please interpose an anterior amendment. I am referring to Section 15 entitled "Counting Procedure."

In line 26, I move to add the phrase POLITICAL PARTIES/CANDIDATES between the words "citizens' arm" and the word "open."

In other words, line 26 will read, "and representatives of accredited citizens' arm, POLITICAL PARTIES/CANDIDATES...."

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Fernan. The last four lines, Mr. President, on page 14, lines 27, 28, 29 and 30, after the word "voting", insert another sentence which reads: IT SHALL VERIFY WHETHER THE NUMBER OF BALLOTS TALLIES WITH THE DATA IN THE MINUTES.

This proposal is in lieu of the present phraseology which I propose to delete which reads: "and verify in the manner prescribed by the Commission whether the ballots tallies with the number of voters who actually voted as recorded in the list

of voters with voting records."

The Presiding Officer [Sen. Flavie]. What does the sponsor say?

Senator Santiago. I have no objection.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved.

We are on page 15.

Senator Santiago. On page 15, lines 10 and 11, I move to delete the words "Comelec DEPUTY."

Senator Fernan. Yes, I agree.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Fernan. In lines 17 to 30 of page 15 and which continues to page 16, lines 1 to 4, I propose an amendment which would read as follows: FOR THE PURPOSE OF THE MAY 11, 1998 ELECTIONS, THE BALLOTS SHALL BE COUNTED BY PRECINCT IN THE ORDER OF THEIR ARRIVAL AT THE COUNTING CENTER. THE CHAIRMAN OF THE SPECIAL BOARD OF ELECTION INSPECTORS OR HIS/HER REPRESENTATIVE SHALL LOG THE SEQUENCE OF ARRIVAL OF THE BALLOT BOXES AND INDICATE THEIR CONDITION. THEREAFTER, THE SPECIAL BOARD SHALL, IN THE PRESENCE OF THE WATCHERS AND REPRESENTATIVES OF ACCREDITED CITIZENS' ARM, OPEN THE BALLOT BOX, RETRIEVE THE BALLOTS AND MINUTES OF VOTING. IT SHALL VERIFY WHETHER THE NUMBER OF BALLOTS TALLIES WITH THE DATA IN THE MINUTES OF VOTING. IF THERE ARE EXCESS BALLOTS, THE COMELEC DEPUTY, WITHOUT LOOKING AT THE CONTENTS THEREOF, SHALL PUBLICLY DRAW OUT AT RANDOM BALLOTS EQUAL TO THE EXCESS, PLACE THEM IN AN ENVELOPE WHICH SHALL BE MARKED "EXCESS BALLOTS." THE ENVELOPE SHALL BE SEALED AND SIGNED BY THE MEMBERS OF THE SPECIAL BOARD AND PLACED IN THE COMPARTMENT FOR THE SPOILED BALLOTS.

Senator Santiago. I have no objection in principle, Mr. President. But for purposes of grammatical consistency, I will simply move to amend that in line 18, after the word "PRECINCT," the following phrase should be inserted: BY THE SPECIAL BOARD OF ELECTION INSPECTORS

IN THE MANNER PROVIDED IN PARAGRAPH (B) HEREOF. Thereafter, we should delete all succeeding provisions in lines 18 to 30 and lines 1 to 4 on page 16 for the reason that the provision sought to be deleted are already provided in paragraph (b) of Section 15. Otherwise, outside of these repetitions or redundancies, I do not object.

Senator Fernan. As long as that is part of the record now, I will not press nor insist on my amendment.

The Presiding Officer [Sen. Flavier]. Subject to style, is there any objection? *[Silence]* There being none, the amendment is approved.

The Presiding Officer [Sen. Flavier]. We are on page 16.

Senator Fernan. Before I propose this amendment which will affect some provisions, I would like to pose a question to the distinguished sponsor: Would the distinguished sponsor accept the idea of giving the fourth copy to the citizens' arm instead of to the dominant majority party?

Senator Santiago. I would like to know what the party that imagines itself to be the "dominant majority party" wishes to say on this subject matter.

Senator Fernan. I think that point can be answered by the Comelec.

Senator Santiago. I think there is a volunteer here from the Gabay ng Bayan Party. *[Laughter]*

Senator Fernan. All right. Our distinguished Majority Leader, Senator Tatad. Will the gentleman care to comment on it? We are serious in referring this to the gentleman.

SUSPENSION OF SESSION

Senator Tatad. May I ask for a one-minute suspension of the session, Mr. President.

The Presiding Officer [Sen. Flavier]. The session is suspended, if there is no objection. *[There was none.]*

It was 6:59 p.m.

RESUMPTION OF SESSION

At 7:00 p.m., the session was resumed.

The Presiding Officer [Sen. Flavier]. The session is resumed.

Senator Santiago. Mr. President, it is my fond wish and ambition that at some future day in the history of the Filipinos, I might be able to address Your Honor as President of the Republic. But for the meantime, I address you as Senate President, and I am happy to inform our colleagues that the Comelec has no strong preference either way since even if the fourth copy is given to the citizen's arm, the dominant majority party would still get the fourth or the sixth copy. Actually, it will simply be a question of who gets the clearer copy, if there is one. I, therefore, have no objection.

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Fernan. The amendment would then read: THE FOURTH COPY TO THE CITIZEN'S ARM AUTHORIZED BY THE COMMISSION TO CONDUCT AN UNOFFICIAL COUNT, deleting the words "dominant majority party as determined by the Commission in accordance with law." THE FIFTH COPY—this is in lines 29 to 30—WOULD BE TO THE DOMINANT MAJORITY IN LIEU OF THE MINORITY PARTY. THE SIXTH COPY TO THE DOMINANT MINORITY PARTY AS DETERMINED BY THE COMMISSION IN ACCORDANCE WITH LAW, deleting the words "Citizen's Arm authorized by the Commission to conduct an unofficial count."

Senator Santiago. It is accepted, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection?

Senator Gonzales. Mr. President.

The Presiding Officer [Sen. Flavier]. Senator Gonzales is recognized.

Senator Gonzales. With the permission of Senators Fernan and Santiago, I just would like to know whether or not the Commission on Elections, through its rule-making power, has issued certain standards or norms when a citizens' arm designated by it is authorized to conduct unofficial tallies and whether the same is also authorized to publish unofficial tallies.

Mr. President, there had been complaints before that in the publication of official tallies, sometimes trending is being made. Regardless of the time of their arrival, places wherein certain candidates are perceived to be strong are the ones that are included in the tally way ahead of those places where a candidate is perceived to be weak and the opponents are strong.

I would just like to know because this is something that must

be subjected to regulation and that can be done only through the internal rules that may be adopted by the Comelec.

SUSPENSION OF SESSION

May we ask for a suspension of the session so that we can make the proper inquiry from the representative of the Commission on Elections, Mr. President?

The Presiding Officer [Sen. Flavie]. The session is suspended, if there is no objection. *[There was none.]*

It was 7:03 p.m.

RESUMPTION OF SESSION

At 7:06 p.m., the session was resumed.

The Presiding Officer [Sen. Flavie]. The session is resumed. The lady senator from Iloilo is recognized.

Senator Santiago. Mr. President, may I please inquire if the gentleman is through with Section 16 because I have my own individual amendments?

The Presiding Officer [Sen. Flavie]. May we act on those copies now for line 25 on the fourth, fifth and sixth copy?

Senator Santiago. I have no objection, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

We are now on page 17.

Senator Santiago. May we please remain on page 16, Mr. President?

The Presiding Officer [Sen. Flavie]. Yes, please.

Senator Santiago. On page 16, line 7, I move to delete the word "COMELEC" and in lieu thereof, insert the phrase AUTHORIZED BY THE COMMISSION after the word "official."

The reason for this amendment is that the Comelec fears that it may not have enough personnel.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Santiago. Still on page 16, line 9, I move to amend by addition, to add the phrase POLITICAL PARTIES/CANDI-

DATES after the word "arm".

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Santiago. Still on page 16, line 12, I move to insert the words OR AUTHORIZED REPRESENTATIVES after the word "officer"; and to delete the words "Any member" in lines 12 and 13 and in lieu thereof, insert the words THE CHAIRMAN.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Santiago. Still on page 16, line 19, I move to delete the phrase "members of the House of Representatives" and in lieu thereof, insert the words PARTY-LIST SYSTEM.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Santiago. And now I move on to page 17. I shall begin with line 7, unless the gentleman has an anterior amendment.

Senator Fernan. I think that was included in my proposed amendment earlier—the 6th copy to the dominant minority party.

The Presiding Officer [Sen. Flavie]. We acted on that already.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavie]. Please proceed.

Senator Santiago. On page 17, line 7, I move to delete the word "board" and in lieu thereof, substitute the words CITIZENS' ARM.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Fernan. Mr. President.

The Presiding Officer [Sen. Flavie]. Senator Fernan is recognized.

Senator Fernan. On page 17, starting from lines 8 all the way to line 29, may I propose an amendment consisting of the insertion of additional provisions which would read as follows:

FOR THE PURPOSE OF THE MAY 11, 1998 ELECTIONS, AFTER THE NATIONAL BALLOTS HAVE BEEN COUNTED, THE CHAIRMAN OF THE SPECIAL BOARD OF ELECTION INSPECTORS OR ANY AUTHORIZED COMELEC OFFICIAL SHALL, IN THE PRESENCE OF WATCHERS AND REPRESENTATIVES OF THE ACCREDITED CITIZENS' ARM, IF ANY, PRINT THE PRECINCT REPORT AND STORE THE DATA IN A DATA STORAGE DEVICE. THE PRINTED ELECTION RETURNS SHALL BE SIGNED AND THUMBMARKED BY THE SPECIAL BOARD AND ATTESTED TO BY THE CHAIRMAN OF THE SAME. THEREAFTER, THE COPIES OF THE ELECTION RETURNS SHALL BE SEALED AND PLACED IN THE PROPER ENVELOPES FOR DISTRIBUTION AS FOLLOWS:

(A) IN THE ELECTION OF PRESIDENT, VICE-PRESIDENT, SENATORS AND PARTY LIST X X X CANDIDATES:

When I say party list, et cetera, as amended by the distinguished chairperson.

1. THE FIRST COPY SHALL BE DELIVERED TO THE PROVINCIAL BOARD OF CANVASSERS AND TO THE CITY BOARD OF CANVASSERS IN THE CASE OF METRO MANILA AND CITIES WITH MORE THAN ONE (1) DISTRICT;

2. THE DISTRIBUTION OF THE REMAINING SIX (6) COPIES SHALL BE GOVERNED BY SECTION 16A(2)-(7), RESPECTIVELY OF THIS ACT.

That is the end of the amendment.

The Presiding Officer [Sen. Flavier]. What does the sponsor say?

Senator Santiago. Mr. President, I am objecting on the ground that it would be better, I think, if from lines 8 to 29, after the word "INSPECTORS", we insert the phrase SHALL IMPLEMENT THE PROVISIONS OF PARAGRAPH (A) HEREOF. Therefore, we will be able to delete lines 11 to 29, starting from the phrase "IF ANY."

The reason for this view is that the distribution of election returns for national offices is already provided for in paragraph (A) of Section 16. In effect, therefore, we are simply repeating ourselves.

Senator Fernan. As far as that particular amendment to the amendment is concerned, we have no objections to the same for the sake of brevity.

There was an earlier amendment where copies of the election returns instead of "to be furnished by the Commission", that it will be "furnished by the citizens' arm". They will have a problem of funding.

Senator Santiago. The gentleman is referring to page 17, line 7, which at present states: "The board shall provide copies of the election returns to all registered parties."

That is a reference to the Board of Election Inspectors. My amendment was that this obligation to provide copies of the election returns to the parties should be devolved from the Board of Election Inspectors to the citizens' arm.

My understanding is, the gentleman is now objecting because the citizens' arm may not have the money nor the resources to comply with this obligation. In any event, I would like to hear from the Minority Leader.

The Presiding Officer [Sen. Flavier]. The Minority Leader is recognized.

Senator Gonzales. I am preparing myself for an amendment to Section 16, paragraph 4, on page 18. We have been discussing this unofficial count by the citizens' arm that is authorized by the Commission, and we are likely to forget it.

With the kind permission of the sponsor, Senator Santiago, and the vice chairman, Senator Fernan, may I be permitted to propose or offer an amendment.

Senator Santiago. Then we will have to deal first with this anterior point concerning page 17, line 7: "The board shall provide copies of the election returns to all registered parties."

The Comelec has made a strong request that instead of imposing this obligation on the Board of Election Inspectors, which has notoriously proved unable to comply with this obligation in past elections, we should appeal to the sense of energy and stamina of the citizens' arms so that this obligation can be transferred to it. That is the reason I earlier moved to amend line 7 so as to provide: THE CITIZENS' ARM SHALL PROVIDE COPIES OF THE ELECTION RETURNS TO ALL REGISTERED PARTIES.

This is an extremely powerful function. In many cases, it has spelled defeat or victory because the Board of Election Inspectors failed deliberately or otherwise to provide election returns to the watchers of certain political parties. That is why I feel it would be safer to give this function to the citizens' arm.

Senator Fernan. Mr. President, I guess the distinguished

chairperson is responding to my earlier proposal, but this was referred to the distinguished Minority Leader. Thereafter, the distinguished Minority Leader referred to a matter that is found on page 16. Am I correct?

Senator Gonzales. I am referring to page 16, paragraph (4), which says: "The fourth copy, to the CITIZENS' ARM AUTHORIZED BY THE COMMISSION TO CONDUCT AN UNOFFICIAL COUNT."

I want to offer an amendment with respect thereto. May I know whether I am permitted to do so by the distinguished sponsor?

Senator Santiago. I am willing to yield the floor because it is an anterior amendment.

Senator Gonzales. Thank you so much.

On page 16, paragraph (4), line 26, after the word "COUNT", delete the semicolon (;), to be followed by the following words: UNDER SUCH GUIDELINES AS THE COMELEC MAY PROVIDE TO ENSURE FAIR AND FACTUAL TALLY IN THE ORDER OF THE TIME OF ARRIVAL OF THE RETURNS: PROVIDED, THAT NO PARTIAL TALLY SHALL BE ALLOWED.

Senator Santiago. I have no objection, Mr. President, subject to style. My own version has basically the same concept but couched in different term.

Senator Gonzales. I will yield to the language to be proposed by the distinguished chairman.

Senator Santiago. Thank you, Mr. President.

Subject to style, my proposal is: IN THE CONDUCT OF THE UNOFFICIAL QUICK COUNT BY ANY ACCREDITED CITIZENS' ARM, THE COMMISSION SHALL PROMULGATE RULES AND REGULATIONS TO ENSURE, AMONG OTHERS, THAT SAID CITIZENS' ARM RELEASES IN THE ORDER OF THEIR ARRIVAL ONE HUNDRED (100) PERCENT RESULTS FROM ALL THE PRECINCTS NATIONWIDE INDICATING THE PRECINCT, MUNICIPALITY OR CITY, PROVINCE AND REGION."

The Presiding Officer [Sen. Flavie]. Does that fulfill the point of Senator Gonzales?

Senator Fernan. Since I originally proposed that amendment, with the phraseology now "to release it to all the precincts one hundred percent," that might be difficult to accomplish

within a short period.

Senator Santiago. I did not exactly mean all the precincts. What I meant was, and I will now change the terminology accordingly—FROM EVERY PRECINCT. That is to say, whenever they report from any precinct, the results should be 100%.

Senator Fernan. With that clarification, we have no objection, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved.

We are back to page 17. I am not too clear as to the status of our debate.

Senator Santiago. We are in line 7. The question is: Who should provide copies of the election returns to the political parties?

The present practice is, it is the Board of Election Inspectors that provides the copies. My amendment, in fact—it is a request or an appeal—is that it should be the citizens' arm that should provide these copies.

It would be an immense help to the Comelec which is always undermanned for this kind of function, and this function has always proved pivotal and crucial in past elections. That is why I feel more confident placing the obligation in the citizens' arm rather than on the Board of Election Inspectors.

Senator Fernan. Rather than say "To provide copies," referring to the citizens' arm, the citizens' arm, I guess, is willing, TO PROVIDE COPIES OF THE ELECTION RETURNS TO ALL REGISTERED PARTIES WHICH WILL BE PRINTED FROM THE COUNTING MACHINE.

Senator Santiago. I have no objection to that additional phrase.

Senator Fernan. So, they can live with this provision.

The Presiding Officer [Sen. Flavie]. Can we act on that now? Is there any objection? [Silence] There being none, the amendment is approved.

Senator Santiago. I am now going to page 18. My amendment begins in line 20...

Senator Fernan. Before going to line 20, a similar amendment would also be in order under lines 7 to 17 with

respect to the copies distributed and who are entitled to the copies because as we amended and earlier approved, the fourth copy goes to the citizens' arm, the fifth copy to the dominant majority party and the sixth copy goes to the dominant minority party.

Senator Santiago. I have no objection.

Senator Fernan. Okay. Thank you, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being none, the amendment is approved.

We are on page 18.

Senator Santiago. On page 18, line 20, in order to conform to the earlier amendment, I move to amend the statement, "The Board shall provide copies of election returns," so that it will read, "The CITIZENS' ARM shall provide copies of election returns."

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Fernan. May I also add WHICH WILL BE PRINTED FROM THE COUNTING MACHINE?

Senator Santiago. I have no objection, although I will note for the record that this particular colatilla or addition will entail further delay. In any event, since apparently it cannot be helped, I have no objection.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being none, the amendment is approved.

We are still on page 18.

Senator Santiago. Mr. President, still on that point. I have said that I do not object to the phrase WHICH WILL BE PRINTED FROM THE COUNTING MACHINE; instead I would like to move to amend by adding the additional phrase AFTER THE COUNT IN THE MUNICIPALITY OR THE CITY so that the count will not be delayed by printing these copies for the political parties.

Senator Fernan. The parties might object if they have to wait until after all the results of the municipalities are in. The idea is, whatever printed copies are available, they will help distribute as citizens' arm immediately after the copies are made available.

Senator Santiago. On that understanding, I withdraw the objection.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavier]. The objection is withdrawn. We are still on page 18.

Senator Santiago. I am done with page 18. I am ready to go to page 19.

Senator Fernan. On page 18—

The Presiding Officer [Sen. Flavier]. Yes.

Senator Fernan. —lines 22 to 24, add the following paragraph:

AFTER THE VOTES FROM ALL PRECINCTS HAVE BEEN COUNTED, A CONSOLIDATED REPORT OF VOTES FOR EACH CANDIDATE SHALL BE PRINTED.

Senator Santiago. I have no objection.

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavier]. We are on page 19.

Senator Santiago. In line 2, I propose to amend by deleting the word "SPECIAL" and changing it to the phrase CITY/MUNICIPALITY. In the same line, I move to delete the term "ELECTION INSPECTORS" and to substitute it with the word CANVASSERS.

Senator Fernan. We have no objections but we have a longer amendment...

The Presiding Officer [Sen. Flavier]. Why do we not act on that first and then go back to the gentleman?

Senator Fernan. Yes, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Santiago. In line 6, insert after the word "BOX", the phrase IN ACCORDANCE WITH THE PROVISIONS OF THE NEXT PRECEDING PARAGRAPH and then delete the provision starting with the word "which" in lines 6 to 12.

The reason for this amendment is that lines 6 to 12 are already provided and are a mere repetition of lines 25 to 31 on page 18.

Senator Fernan. We have no objection, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Fernan. As shortened, may I now propose my amendment starting with line 1 to line 12. But this has been deleted starting from the word "which" in line 6.

So, I will now limit my amendment to lines 1 to 6. FOR THE PURPOSE OF THE MAY 11, 1998 ELECTIONS, THE CHAIRMAN OF THE CITY, MUNICIPAL BOARD OF CANVASSERS SHALL CONSOLIDATE ALL THE REPORTS PRINTED BY THE MACHINE PER MUNICIPALITY. AFTER THE PRINTING OF THE ELECTION RETURNS, THE BALLOT SHALL BE RETURNED TO THE BALLOT BOX.

Senator Santiago. I have no objection.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavie]. But there was this anterior amendment after the phrase "ballot box in accordance..." and so on.

With that understanding, the amendment is approved.

Senator Fernan. Yes, Mr. President.

The Presiding Officer [Sen. Flavie]. We are still on page 19.

Senator Fernan. Page 19, lines 19 to 25.

Senator Santiago. May I please present an anterior amendment. We are on page 19; I am now referring to Section 17 particularly to line 17.

I move to delete the word "elements" and replace it with the word PARAPHERNALIA.

Senator Fernan. We have no objection, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Please proceed, Senator Fernan.

Senator Fernan. In lines 19 to 25, insert the provision which would read as follows: FOR THE PURPOSE OF THE

MAY 11, 1998 ELECTIONS, THE PROVINCIAL ELECTION SUPERVISOR AND THE TREASURER OF THE PROVINCE/CITY/MUNICIPALITY AS DEPUTY OF THE COMMISSION SHALL HAVE JOINT CUSTODY AND ACCOUNTABILITY OF THE OFFICIAL NATIONAL BALLOTS, ACCOUNTABLE FORMS AND OTHER ELECTION DOCUMENTS AS WELL AS BALLOT BOXES CONTAINING THE OFFICIAL NATIONAL BALLOTS CAST.

Senator Santiago. Mr. President, my objection to lines 19 to 25 which I move to delete is that they are a repetition of lines 13 to 18 of Section 17 found also on page 19.

Senator Fernan. In which case, I am persuaded by the remarks, the comments of the distinguished sponsor.

The Presiding Officer [Sen. Flavie]. The persuasion is approved. *[Laughter]*

Senator Santiago. Mr. President, may I please have permission to go back to line 4 of the same page. For consistency, I move to amend that line so that it will read: MUNICIPALITY/CITY.

Senator Fernan. I have no objection, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the amendment is approved.

We are now on page 20 and the underlined lines are in lines 17 to 19.

Senator Fernan. In line 17, instead of the "party-list candidates" that I was about to propose in lieu of the words found in lines 17 to 19, "and members of the House of Representatives and/or elective provincial and city or municipal officials," I move that we use the term proposed by the distinguished sponsor PARTY-LIST ORGANIZATIONS....

The Presiding Officer [Sen. Flavie]. As previously worded by the sponsor.

Senator Fernan. As previously worded by the distinguished sponsor.

Senator Santiago. The previous wording is: PARTIES, ORGANIZATIONS OR COALITIONS PARTICIPATING UNDER THE PARTY-LIST SYSTEM.

Senator Fernan. That is correct, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any

objection? *[Silence]* There being none, the amendment is approved.

We are now on page 21.

Senator Fernan. There is nothing on page 21 for me.

Senator Santiago. I will resume on page 24.

The Presiding Officer [Sen. Flavier]. There is an underlined word on page 22, Senator Fernan, at the bottom of the page. It says "party-list candidates."

Senator Fernan. Yes. So, in lieu of the "party-list candidates," the same phraseology used by the distinguished sponsor.

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being none, the amendment is approved.

We are now on page 23.

Senator Fernan. The same comment and proposal apply to lines 4 and 5.

The Presiding Officer [Sen. Flavier]. And also line 17.

Senator Fernan. And also in line 17. That is correct, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Fernan. Lines 11 to 13 is a deletion of that provision because we already defined the furnishing of copies out of the returns, the printed returns.

The Presiding Officer [Sen. Flavier]. What does the sponsor say?

Senator Santiago. Are we on page 24?

The Presiding Officer [Sen. Flavier]. We are on page 23, lines 11 to 13 are deleted.

Senator Santiago. I have no objection.

The Presiding Officer [Sen. Flavier]. There being no objection, the amendment is approved.

We are now on page 24.

Senator Santiago. My amendments begin with lines 6 to

15. I move to delete these lines for the reason that the distribution of the certificate of canvass for national positions is already provided for in paragraph (b), Section 19, page 23, lines 16 to 31 as well as on page 24, lines 1 to 5. In other words, the reason is that they are a redundancy.

Senator Fernan. Again, I am persuaded by the distinguished sponsor, so I will not press for the amendment in lines 6 to 15.

The Presiding Officer [Sen. Flavier]. And we are deleting it. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Santiago. In line 4, Mr. President, consistent with my previous amendments, I move to amend so that the provision will state "The citizens' arm," instead of "The board of canvassers."

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being none, the amendment is approved.

There are also underlined phrases in lines 1 and 3, Senator Fernan, on page 24, at the top of the page. There is a bracketed sentence in lines 1 to 3.

Senator Fernan. Yes. We are also proposing an amendment to delete the words appearing in lines 1 to 3, which read: "It shall be the duty of the citizens' arm to furnish independent candidates copies of the certificate of canvass upon their request."

The Presiding Officer [Sen. Flavier]. What does the sponsor say?

Senator Santiago. In view of the fact that we have already amended the succeeding line so that it will state that it will be the citizens' arm that shall furnish all registered parties copies of the certificate of canvass, I have no objection to deleting the prior lines or the preceding lines.

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being no objection, the amendment is approved.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavier]. Then the bottom of the page...

Senator Fernan. So, in lines 22 to 29, add a paragraph starting with line 22, on page 24, which will read as follows:

FOR THE PURPOSE OF THE MAY 11, 1998 ELECTIONS, THE CERTIFICATES OF CANVASS PRINTED BY THE...

Was this amended, "citizens' arm" or by "THE CITY BOARDS OF CANVASSERS OF CITIES"?

Senator Santiago. Yes, please.

Senator Fernan. ...COMPRISING ONE (1) OR MORE LEGISLATIVE DISTRICTS OR BY THE PROVINCIAL BOARDS OF CANVASSERS SHALL BE SIGNED AND THUMBMARKED BY THE CHAIRMAN AND MEMBERS OF THE BOARD, AND THE PRINCIPAL WATCHERS, IF AVAILABLE. THEREAFTER, IT SHALL BE SEALED AND PLACED INSIDE AN ENVELOPE WHICH SHALL LIKEWISE BE PROPERLY SEALED.

Senator Santiago. My comment is that it would be preferable to insert in line 16, between the word "the" and the word "city" the words PROVINCIAL/DISTRICT. Thereafter, we should delete the provisions in lines 22 to 29 for the reason that lines 22 to 29 have been integrated into paragraph (c) of Section 19. In that way, we would be able to avoid redundancy.

Senator Fernan. Yes. The observation is very well taken. I fully agree.

The Presiding Officer [Sen. Flavie]. There being no objection, the amendment is approved.

We are now on page 25.

Senator Fernan. We have no amendments.

The Presiding Officer [Sen. Flavie]. Page 26.

Senator Fernan. On page 26, lines 26 to 31, up to page 27, lines 1 to 3, insert two additional paragraphs which would read as follows:

A PROJECT MANAGEMENT TEAM, WHICH SHALL BE TASKED TO ASSIST THE OVERSIGHT COMMITTEE IN ALL OF ITS FUNCTIONS, SHALL BE CREATED UNDER THE DIRECT SUPERVISION OF THE OVERSIGHT COMMITTEE.

THE OVERSIGHT COMMITTEE MAY HIRE COMPETENT CONSULTANTS FOR PROJECT MONITORING AND INFORMATION TECHNOLOGY CONCERNS RELATED TO THE IMPLEMENTATION AND IMPROVEMENT OF THE MODERN ELECTION SYSTEM. THE OVERSIGHT

COMMITTEE SHALL BE PROVIDED WITH THE NECESSARY FUNDS TO CARRY OUT ITS DUTIES.

The Presiding Officer [Sen. Flavie]. What does the sponsor say?

Senator Santiago. I have no objection.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavie]. There being no objection, the amendment is approved.

We are now on page 28.

Senator Fernan. Page 28, lines 15 to 18, we propose to insert an additional paragraph which reads:

IN CASE OF DEFICIENCY IN THE FUNDING REQUIREMENTS HEREIN PROVIDED, SUCH AMOUNT AS MAY BE NECESSARY SHALL BE AUGMENTED FROM THE CONTINGENT FUND IN THE GENERAL APPROPRIATIONS ACT.

The Presiding Officer [Sen. Flavie]. What does the sponsor say?

Senator Santiago. I have no objection, Mr. President.

The Presiding Officer [Sen. Flavie]. There being no objection, the amendment is approved.

Senator Fernan. Thank you, Mr. President. We have no further amendments.

Senator Santiago. Mr. President, I am sorry but I will have to move to amend so that we can provide certain sections which for the moment I shall designate as Sections 2(A)...

The Presiding Officer [Sen. Flavie]. On what page?

Senator Santiago. Section 2 is presently on page 1 of the version. Since I would like to insert these sections after Section 2, I shall designate them for the moment as Sections 2(A), 2(B) and 2(C). They have to do with the two other members of the Board of Election Inspectors.

I actually previously read at least some of these provisions at the last session but I recall that we did not take categorical action in adopting them. I just want to enter them for the record.

The Presiding Officer [Sen. Flavie]. Is it an insertion that

the sponsor is making?

Senator Santiago. I move to amend by inserting Section 2(A) subject to the proper numbering.

SEC. 2(A). *QUALIFICATIONS, RIGHTS AND LIMITATIONS OF FOURTH AND FIFTH MEMBERS OF THE BOARD OF ELECTION INSPECTORS* - NO PERSON SHALL BE APPOINTED AS FOURTH OR FIFTH MEMBER OF THE BOARD OF ELECTION INSPECTORS UNLESS HE/SHE IS OF GOOD MORAL CHARACTER AND IRREPROACHABLE REPUTATION, A REGISTERED VOTER IN THE CITY OR MUNICIPALITY, HAS NEVER BEEN CONVICTED OF ANY ELECTION OFFENSE OR OF ANY CRIME PUNISHABLE BY MORE THAN SIX (6) MONTHS IMPRISONMENT, OR IF HE/SHE HAS PENDING AGAINST HIM/HER AN INFORMATION FOR ANY ELECTION OFFENSE, OR IF HE/SHE OR SHE IS RELATED WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY TO ANY MEMBER OF THE BOARD OF ELECTION INSPECTORS, OR THE SPECIAL BOARD, OR TO ANY CANDIDATE FOR A NATIONAL POSITION, OR TO A NOMINEE AS PARTY-LIST REPRESENTATIVE OR HIS/HER SPOUSE. THE FOURTH AND FIFTH MEMBER SHALL ENJOY THE SAME RIGHTS AND BE BOUND BY THE SAME LIMITATIONS AS A REGULAR MEMBER OF THE BOARD OF ELECTION INSPECTORS BUT SHALL NOT VOTE DURING THE PROCEEDINGS OF THE BOARD OF ELECTION INSPECTORS EXCEPT ON MATTERS PERTAINING TO THE NATIONAL BALLOTS.

May I please know, before I proceed with the other insertions, Mr. President, what action the floor wishes to take.

The Presiding Officer [Sen. Flavier]. Is this insertion subject to the proper numbering?

Senator Santiago. Yes, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Santiago. I move to amend by inserting the following, which for the moment, I will refer to as Section 2(B):

DUTIES AND FUNCTIONS OF THE FOURTH AND FIFTH MEMBERS OF THE BOARD OF ELECTION INSPECTORS. - THE FOURTH AND FIFTH MEMBERS SHALL:

(1) DURING THE CONDUCT OF THE VOTING IN THE POLLING PLACE,

(A) ACCOMPLISH THE MINUTES OF VOTING FOR THE AUTOMATED ELECTION SYSTEM IN THE PRECINCT, AND

(B) ENSURE THAT THE NATIONAL BALLOTS ARE PLACED INSIDE THE APPROPRIATE BALLOT BOX.

(2) ON THE CLOSE OF POLLS. - BRING THE BALLOT BOX CONTAINING THE NATIONAL BALLOTS TO THE DESIGNATED COUNTING CENTER.

(3) BEFORE THE COUNTING OF VOTES. - VERIFY WHETHER THE NUMBER OF NATIONAL BALLOTS TALLIES WITH THE DATA IN THE MINUTES OF VOTING.

(4) DURING THE COUNTING OF VOTES. - ACCOMPLISH JOINTLY WITH THE CHAIRMAN OF THE SPECIAL BOARD THE MINUTES OF COUNTING FOR THE AUTOMATED ELECTION SYSTEM IN THE PRECINCT.

(5) AFTER THE COUNTING OF VOTES,

(A) CERTIFY JOINTLY WITH THE CHAIRMAN OF THE SPECIAL BOARD THE RESULTS OF THE COUNTING OF THE NATIONAL BALLOTS FROM THE PRECINCT, AND

(B) BRING THE BALLOT BOX CONTAINING THE COUNTED NATIONAL BALLOTS, INCLUDING THE MINUTES OF VOTING AND COUNTING AND OTHER ELECTION DOCUMENTS AND PARAPHERNALIA TO THE CITY OR MUNICIPAL TREASURER FOR SAFEKEEPING.

That is the end of the proposed insertion.

The Presiding Officer [Sen. Flavier]. Subject to proper numbering, is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Santiago. Finally, I move to amend by inserting what I shall temporarily refer to as Section 2(C), subtitled BOARD OF CANVASSERS.

SEC. 2(C). *BOARD OF CANVASSERS.* - FOR THE PURPOSES OF THE MAY 11, 1998 ELECTIONS, EACH PROVINCE, CITY OR MUNICIPALITY SHALL HAVE TWO BOARDS OF CANVASSERS, ONE FOR THE MANUAL ELECTION SYSTEM UNDER THE EXISTING LAW, AND THE OTHER FOR THE AUTOMATED SYSTEM. FOR THE

AUTOMATED ELECTION SYSTEM, THE CHAIRMAN OF THE BOARD SHALL BE APPOINTED BY THE COMMISSION FROM AMONG ITS PERSONNEL/ DEPUTIES AND THE MEMBERS FROM AMONG THE OFFICIALS ENUMERATED IN SECTION 21 OF R.A. NO. 6646.

The Presiding Officer [Sen. Flavier]. Subject to proper numbering, is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Santiago. I thank the gentleman's stamina, Mr. President.

Senator Romulo. Mr. President.

The Presiding Officer [Sen. Flavier]. Senator Romulo is recognized.

Senator Fernan. Mr. President, may I just be clarified on one point before I go back to my seat?

The Presiding Officer [Sen. Flavier]. With the permission of the Senators on the floor.

Senator Fernan. With the permission of Senator Romulo.

The Presiding Officer [Sen. Flavier]. Senator Fernan may proceed.

Senator Fernan. When we speak of a Board of Election Inspectors consisting of five...

Senator Santiago. May I please request the distinguished gentleman to automate the sound system? *[Laughter]*

Senator Fernan. Yes, yes, when the bill refers to a Board of Election Inspectors consisting of five people, the three are the regular election inspectors.

Senator Santiago. That is correct.

Senator Fernan. One will really be the escort of the national ballot box,—

Senator Santiago. That is correct.

Senator Fernan. —and the fifth will be the operator of the machine.

Senator Santiago. That is correct, He stays in the counting center.

Senator Fernan. All right. That is clarified then. Thank you very much.

The Presiding Officer [Sen. Flavier]. Thank you. Senator Romulo is recognized.

ROMULO AMENDMENT

Senator Romulo. Mr. President, I would like to propose an amendment. This is in Section 3, page 4, and this would be in lines 19 to 24. Under the proposed law, the provision says: "PROVIDED, ... IF IN SPITE OF THE EXERCISE OF THIS AUTHORITY, IT BECOMES EVIDENT BY THE END OF FEBRUARY, 1998 THAT THE COMMISSION CANNOT FULLY IMPLEMENT THE AUTOMATED ELECTION SYSTEM FOR NATIONAL POSITIONS IN THE MAY 11, 1998 ELECTIONS, THE ELECTIONS FOR BOTH NATIONAL AND LOCAL POSITIONS SHALL BE DONE MANUALLY." This has already been approved.

The Presiding Officer [Sen. Flavier]. Yes.

Senator Romulo. But my amendment is in lieu of "BY THE END OF FEBRUARY." I would like to propose the amendment: IF IT BECOMES EVIDENT BY FEBRUARY 10. In other words, instead of "END OF FEBRUARY," I would propose to amend that to FEBRUARY 10, the reason being that starting February 11, the national campaign starts. So I would like to propose that.

Senator Santiago. I have no objection.

Senator Fernan. On our part, we have no objection.

Senator Romulo. Thank you, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection?

Senator Gonzales. Mr. President.

The Presiding Officer [Sen. Flavier]. Is it an objection, Senator Gonzales? May we act on this or would the distinguished Minority Leader like to comment on that amendment? It is a different item.

Senator Gonzales. Mr. President, I have none. In fact, I rose to offer an amendment.

The Presiding Officer [Sen. Flavier]. So let us act on it then. Is there any objection? *[Silence]* There being none, the amendment is approved.

Please proceed, Senator Gonzales.

GONZALES AMENDMENT

Senator Gonzales. Mr. President, I want to offer the following amendment, particularly in line 20 of page 12. Delete the entire phrase "No replacement of ballots shall be allowed." And in lieu thereof, put the following provision:

IF A VOTER SPOILS HIS BALLOT, HE MAY BE ISSUED ANOTHER BALLOT. NO VOTER MAY BE ALLOWED TO CHANGE HIS BALLOT MORE THAN ONCE.

Senator Santiago. I have no objection, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Fernan. Mr. President, may I just be clarified on one point before we close the period of amendments?

On page 3, paragraph 11, under the title "Election Returns," I just want to clarify matters that we ask for the insertion of the word PROVINCE between the words "the" and "municipality"; and after the word "municipality", we insert the words AND THE PRECINCT; and then delete the word "containing"; and also add the phrase DIRECTLY PRODUCED BY THE COUNTING MACHINE. So that as amended, it will read as follows:

"Election Returns" - a document showing the date of the election, the PROVINCE, municipality AND THE PRECINCT in which it is held and the votes in figures for each candidate in a precinct DIRECTLY PRODUCED BY THE COUNTING MACHINE.

Senator Santiago. I have no objection, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Fernan. Thank you, Mr. President. This matter of the 150 days before elections, my attention has just been called. On page 10, if our deadline for the filing of certificate of candidacy/petition for registration/manifestation to participate in the elections shall be at least One hundred fifty (150) days before the elections, our deadline expires today—December 11, January, February, March, April, May. Should we not reduce this to one hundred twenty (120) days?

Senator Santiago. That will be logical. So I do not object, Mr. President.

Senator Fernan. Thank you, Mr. President.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being no objection, the amendment is approved.

Senator Gonzales. Mr. President.

The Presiding Officer [Sen. Flavie]. Senator Gonzales is recognized.

Senator Gonzales. Thank you, Mr. President. This has something to do with Section 9 appearing on pages 11 and 12. I may ask questions for which I have no answers.

For example, Section 9 says: "*Substitution of Candidates.*" - In case of valid substitutions after the official ballots have been printed, the votes cast for the substituted candidates shall be considered votes for the substitute."

I do not know what is the basis for this provision, Mr. President. Why should the vote for a different person be considered a vote for the one who substituted for him?

Senator Santiago. Mr. President, I believe I have answered this inquiry before.

Senator Gonzales. Yes, Mr. President.

Senator Santiago. The Comelec has explained that this provision has been cast the way it is because under the automated system, the names of the candidates are pre-printed on the ballot. Thus, when the candidate dies, there will be no more time to print extra ballot or to add an additional name on the ballot.

Possibly, what can be done is to add a blank after the last name printed on the ballot, but that would invite so many activities that, in effect, the ballot might be considered spoiled. Therefore, the voter would be disenfranchised.

Senator Gonzales. Let us try to balance this with the truth. What right do we have in providing by law that the vote for a person should be counted as a vote for another person? That is as simple as that. Probably Comelec can break its head and try to find out a way by which that dilemma can be solved. But certainly not by counting in favor of a substitute candidate a vote cast for a substituted candidate. There is no reason; there is no logic behind that, Mr. President.

Senator Santiago. That is correct, Mr. President. Except that under the existing Election Code, presumably Section 72, the right of substitution is given by the Election Code even up to midday of the election day itself.

Senator Gonzales. That is correct, Mr. President.

Senator Santiago. Because of that provision, the Comelec thought that even under a system of automated voting, the right of substitution should be respected as well. But I agree that there really is no vested interest in a substitution even in case of death.

May I know please what the sentiment of the gentleman is?

Senator Gonzales. In fact, I prefaced my amendment with the statement that I may be asking questions for which I have no ready solution. I thought that probably the Comelec may be of help in a situation like this. Certainly, there must be some other ways.

Sometimes, when the ballots do not arrive in a municipality, the law authorizes the municipal treasurer to print the so-called emergency or special ballots by whatever practicable means. I was thinking that somehow there must be some similar remedy in a situation where a candidate has been substituted for.

In substitution, it can result from the death, disqualification or withdrawal of a candidate. If he is voted, why should a vote for him be cast in favor of a substitute candidate?

Senator Santiago. Mr. President, the best proposal that the Comelec can push forward this evening is to add a blank line after the name of the last candidate printed on the ballot just in case any of the candidates whose names are already printed withdraw or die before election day.

Senator Gonzales. That is really not new in this jurisdiction, because if the lady senator will recall, before the declaration of martial law, special election for senators were called to fill existing vacancies. There is a space for special election in the ballot itself. I would welcome this as a solution in the absence of a better one, Mr. President.

Senator Santiago. In the United States, this is called the practice of the so-called write-in vote because the voter is allowed to write in the ballot the name of the candidate who is being substituted.

As I said, Mr. President, the proper amendment if found acceptable, would be to add a blank space for every position that is being voted upon, with the provision that that space should only be for the name of a substitute candidate, if any.

Senator Gonzales. Mr. President, that is feasible, but I am attracted to the lady senator's suggestion of a "write-in" ballot. In fact, that was what I had in mind, although I was not very sure of it, that a sort of a special ballot will be issued only in those municipalities or in places wherein there exists a substitution of candidates. That is also feasible.

GONZALES AMENDMENT

But to economize on the ballots' expenses, probably we can opt in favor of a blank space with appropriate instructions that it shall be filled only in case of substitution.

Senator Santiago. I do not object, Mr. President.

The Presiding Officer [Sen. Flavier]. With that understanding, subject to style...

Senator Gonzales. Subject to style, Mr. President.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Tatad. Mr. President.

The Presiding Officer [Senator Flavier]. The Majority Leader is recognized.

Senator Tatad. Mr. President, I wonder if the distinguished sponsor will entertain one last possible amendment.

On page 10, referring to the deadline for the filing of certificates of candidacy—*Petition for Registration, Manifestation to Participate in the Election*, I wonder if the distinguished sponsor will agree that the 120 days be further reduced to 100 days.

Senator Santiago. May I know please what is the reason for the proposed amendment?

Senator Tatad. We are talking of the deadline for the filing of certificate of candidacy and 120 days would fall on January 11, which, if I am not mistaken, is the beginning of the election period. It should be the beginning of the filing rather than the deadline. I feel that by extending the period, we would be allowing the parties greater leeway in participating in the election.

Senator Santiago. I am sorry, Mr. President, but the Comelec commissioners have informed me that they fear that there will be no more time for printing the ballots in that case since they would have to print at least 40 million ballots.

Senator Tatad. So would the manifestation to participate in the election be taken in the same manner as the certificate of candidacy would be if the deadline is 120 days?

Senator Santiago. That is correct.

Senator Tatad. If an interested party manifests his/her

desire to participate in the election, would that be construed as the same as a certificate of candidacy being filed?

Senator Santiago. Could the gentleman rephrase the question, please?

Senator Tatad. I was talking to the vice chairman of the committee and his impression is that even if a particular person does not file a certificate of candidacy simply by filing a manifestation to participate in the election, he would be complying with the deadline provision. But if the major consideration of the Comelec is the time needed to produce the ballots, would that person making that manifestation to participate then be treated in the same manner as one who has filed a certificate of candidacy?

Senator Santiago. No, Mr. President, they are completely separate and distinct activities. The candidate must file a certificate of candidacy. He files a manifestation to participate if he belongs to a party that intends to participate in the party-list system. Therefore, even if the candidate has filed the manifestation to participate, he will still be required as a mandatory matter to file his certificate of candidacy; otherwise, he loses the right.

Senator Tatad. When does one begin to file a certificate of candidacy? What is the legal period?

Senator Santiago. The election day is May 11 and we have to count backwards 120 days before.

Senator Tatad. So January 11.

Senator Santiago. The start of the election period.

Senator Tatad. The very first day that one is legally allowed to file a certificate of candidacy is also the deadline for the filing of the certificate of candidacy?

This is a rather unusual situation. I believe we should allow for a few days at least.

Senator Santiago. That is correct. The Comelec feels that this problem can be solved if it chooses to exercise discretion given to it by Republic Act No. 6646. It can actually move the date backwards for pre-election activities at least.

Senator Tatad. So that the first day of filing could be moved earlier than January 11, is this our understanding?

Senator Santiago. Yes, that is correct. The Comelec would have the power to move the date backwards.

Senator Tatad. With that clarification, I am sufficiently enlightened and I withdraw my proposal.

Mr. President, there being no further amendments, I move that the period of amendments be closed.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Romulo. Mr. President.

The Presiding Officer [Sen. Flavie]. Senator Romulo wants to make a manifestation.

Senator Romulo. Mr. President, just to ask for clarification apropos to the questions raised by Senator Tatad. In other words, it means that all candidates for national offices should file not later than January 11, is that correct?

Senator Santiago. That is correct. That is an accurate statement.

Senator Romulo. But, of course, can they file earlier? It is just that January 11 is the last day of filing.

Senator Santiago. That is correct.

Senator Romulo. And then as far as this bill that we are passing is concerned, this will henceforth computerize elections for national offices starting 1998, is that correct?

Senator Santiago. That is correct, yes.

Senator Romulo. How about the local elections?

Senator Santiago. That should begin in the elections of 1999.

Senator Romulo. So that with the passage of this bill, we shall have fully computerized or automated all the future elections starting with 1998 for national elections and starting in 1999 also with the local elections. Thereafter, both national and local elections?

Senator Santiago. That is correct.

Senator Romulo. Thank you, Mr. President.

Senator Tatad. Mr. President, I reiterate my motion that we close the period of amendments.

The Presiding Officer [Sen. Flavie]. Is there any

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

Senator Tatad. May we direct the Secretariat to prepare a clean copy of the bill, as amended, so that on Monday, we will be able to act on it.

The Presiding Officer [Sen. Flavie]. It is so noted.

Senator Drilon. Mr. President.

The Presiding Officer [Sen. Flavie]. Senator Drilon would like to make a manifestation.

SUSPENSION OF SESSION

Senator Drilon. May we ask for a one-minute suspension of the session.

The Presiding Officer [Sen. Flavie]. The session is suspended for one minute, if there is no objection. *[There was none.]*

It was 8:00 p.m.

RESUMPTION OF SESSION

At 8:01 p.m., the session was resumed.

The Presiding Officer [Sen. Flavie]. The session is resumed.

APPROVAL OF S. NO. 2314 ON SECOND READING

Senator Tatad. Mr. President, I move that we vote on Second Reading on Senate Bill No. 2314, as amended.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, we shall now vote on Second Reading on Senate Bill No. 2314, as amended.

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

Several Members. *Aye*.

The Presiding Officer [Sen. Flavie]. As many as are against the bill, say *nay*. *[Silence]*

Senate Bill No. 2314, as amended, is approved on Second Reading. *[Applause]*

SUSPENSION OF CONSIDERATION OF S. NO. 2314

Senator Tatad. Mr. President, I move that we suspend consideration of Senate Bill No. 2314.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the motion is approved.

MOTION OF SENATOR TATAD (Insertion of Additional Reference of Business into the Record and Journal)

Senator Tatad. Mr. President, with the consent of the Chamber, I ask that the Additional Reference of Business for today's session pertaining to three Committee Reports be considered as having been read without prejudice to the text being inserted in the *Record and Journal*, respectively.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the motion is approved.

ADDITIONAL REFERENCE OF BUSINESS

COMMITTEE REPORTS

The Secretary. Committee Report No. 838, submitted by the Committee on Constitutional Amendments, Revision of Codes and Laws on Senate Bill No. 1449, introduced by Senator Santiago, entitled

AN ACT REQUIRING THE PREPARATION AND ISSUANCE OF THE CERTIFICATE OF VOTES AS REPLICA OF THE ELECTION RETURNS AND PRESCRIBING A REVISED C.E. FORM NO. 13, AMENDING FOR THAT PURPOSE SECTION 215 OF THE OMNIBUS ELECTION CODE, AS AMENDED BY R.A. NO. 6646, SECTION 16,

recommending its approval with amendments.

Sponsor: Senator Santiago

The Presiding Officer [Sen. Flavie]. To the Calendar for Ordinary Business

The Secretary. Committee Report No. 839, submitted by the Committee on Constitutional Amendments, Revision of Codes and Laws on Senate Bill No. 1958, introduced by Senator Romulo, entitled

AN ACT AMENDING SECTION 97 OF B.P. BLG. 881, AS AMENDED, OTHERWISE KNOWN AS THE "OMNIBUS ELECTION CODE OF THE PHILIPPINES" AND FOR OTHER PURPOSES,

recommending its approval with amendments.

Sponsors: Senators Santiago and Romulo

The Presiding Officer [Sen. Flavie]. To the Calendar for Ordinary Business

The Secretary. Committee Report No. 840, submitted jointly by the Committees on Health and Demography; and Finance on House Bill No. 9882, introduced by Representatives Romualdo and Abad, entitled

AN ACT UPGRADING THE CAMIGUIN ISLAND HOSPITAL TO TERTIARY LEVEL II TO BE KNOWN AS THE CAMIGUIN GENERAL HOSPITAL, AND APPROPRIATING FUNDS THEREFOR,

recommending its approval with amendments.

Sponsor: Senator Webb

The Presiding Officer [Sen. Flavie]. To the Calendar for Ordinary Business

Senator Tatad. Mr. President, because of the lateness of the hour, we are unable to resume consideration of the budget.

As per our earlier understanding, the members will be submitting their proposed amendments to the chairman of the Committee on Finance at the latest, tomorrow, so that the committee can work on these proposed amendments during the weekend.

The Presiding Officer [Sen. Flavie]. It is so noted.

Senator Tatad. I am sorry, I have to correct that.

I understand the committee has just extended the deadline up to Saturday morning. The amendment should come in between now and Saturday morning so that the LBRMO can work on this.

The Presiding Officer [Sen. Flavie]. It is so noted.

Senator Tatad. In the meantime, we will resume the deliberations on Monday.

The Presiding Officer [Sen. Flavie]. It is so noted.

Senator Romulo. Mr. President.

Senator Tatad. With that, Mr. President, I move to adjourn the session...

The Presiding Officer [Sen. Flavie]. There is a manifestation from Senator Romulo.

Senator Romulo. Mr. President, I have no objection to the adjournment. I just want to state that I have still a reservation to interpellate on Monday.

Senator Tatad. Yes, the reservations shall be respected, Mr. President.

ADJOURNMENT OF SESSION

I move to adjourn the session until Monday at three o'clock in the afternoon.

The Presiding Officer [Sen. Flavie]. Is there any objection? *[Silence]* There being none, the session is adjourned until December 15, Monday, at three o'clock in the afternoon.

It was 8:04 p.m.

DEC. 15, 1997

Monday, December 15, 1997

RECORD OF THE SENATE

Voting on S. No. 2314 - 3rd Reading

SAN FERNANDO, LA UNION, INTO A COMPONENT CITY TO BE KNOWN AS THE CITY OF SAN FERNANDO,

CALAPAN IN THE PROVINCE OF ORIENTAL MINDORO INTO A COMPONENT CITY TO BE KNOWN AS THE CITY OF CALAPAN,

to which it requests the concurrence of the Senate.

recommending its approval with amendments.

Very truly yours,

Sponsor: Senator Sotto III

(Sgd.) ROBERTO P. NAZARENO Secretary General

The President. To the Calendar for Ordinary Business

Senator Tatad. Mr. President.

The President. Referred to the Committee on Local Government

The President. The Majority Leader is recognized.

The Secretary.

BILL ON THIRD READING

December 11, 1997

S. No. 2314—Automated Election System Act of 1998

The Honorable ERNESTO M. MACEDA President of the Senate Financial Center Pasay City 1308

Senator Tatad. Mr. President, I move that we vote on Third Reading on Senate Bill No. 2314. Copies of the bill were distributed to the members on December 12, 1997.

Mr. President:

The President. Is there any objection? [Silence] There being none, voting on Third Reading on Senate Bill No. 2314 is now in order.

I have been directed to inform the Senate that the House of Representatives on December 11, 1997, passed House Bill No. 9933, entitled

The Acting Secretary will please read the title of the bill.

The Acting Secretary [Atty. Raval]. Senate Bill No. 2314, entitled

AN ACT CONVERTING THE MUNICIPALITY OF PASSI IN THE PROVINCE OF ILOILO INTO A COMPONENT CITY TO BE KNOWN AS THE CITY OF PASSI,

AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL AND IN SUBSEQUENT ELECTORAL EXERCISES AND PROVIDING FUNDS THEREFOR

to which it requests the concurrence of the Senate.

The President. We shall now vote on the bill and the Acting Secretary will call the roll.

Very truly yours,

The Acting Secretary [Atty. Raval]. Senators

(Sgd.) ROBERTO P. NAZARENO Secretary General

The President. Referred to the Committee on Local Government

- Alvarez Yes
Angara Yes
Coseteng
Drilon Yes
Enrile Yes
Fernan
Flavier Yes
Gonzales Yes
Herrera Yes
Honasan Yes

COMMITTEE REPORT

The Secretary. Committee Report No. 841, submitted by the Committee on Local Government on House Bill No. 9791, introduced by Representative Leviste, et al., entitled

AN ACT CONVERTING THE MUNICIPALITY OF

Macapagal	
Magsaysay Jr.	Yes
Mercado	
Ople	
Osmeña III	
Revilla	Yes
Roco	
Romulo	Yes
Santiago	Yes
Shahani	
Sotto III	Yes
Tatad	Yes
Webb	Yes
The President	Abstention

The President. With 15 affirmative votes, no negative vote, and one abstention...

Senator Romulo. Mr. President.

The President. The gentleman from Tarlac and Quezon City is recognized.

Senator Romulo. May I know how my vote was recorded?

The President. In the affirmative.

EXPLANATION OF VOTE OF SENATOR ROMULO

Senator Romulo. I just raised my hand to reserve the right to submit an explanation of my Yes vote.

The President. Thank you. It is noted.

Editorial Note: As of press time, no written explanation of vote of Senator Romulo has been submitted.

APPROVAL OF S. NO. 2314 ON THIRD READING

With 15 affirmative votes, no negative vote and the Chair abstaining, Senate Bill No. 2314 is approved on Third Reading.

EXPLANATION OF VOTE OF SENATOR TATAD

Senator Tatad. Mr. President, may I reserve the right to submit a written explanation of my Yes vote.

Editorial Note: As of press time, no written explanation of vote of Senator Tatad has been submitted.

EXPLANATION OF VOTE OF SENATOR MACEDA

The President. The Chair will also submit a written explanation of his abstention.

Editorial Note: As of press time, no written explanation of vote of Senator Maceda has been submitted.

BILL ON THIRD READING
H. No. 7729—Lemery National High School
Lemery, Iloilo

Senator Tatad. Mr. President, I move that we vote on Third Reading on House Bill No. 7729. Copies of the bill were distributed to the members on November 27, 1997.

The President. Is there any objection? [Silence] There being none, voting on Third Reading on House Bill No. 7729 is now in order.

The Acting Secretary will please read only the title of the bill.

The Acting Secretary [Atty. Raval]. House Bill No. 7729, entitled

AN ACT ESTABLISHING A NATIONAL HIGH SCHOOL IN THE MUNICIPALITY OF LEMERY, PROVINCE OF ILOILO, TO BE KNOWN AS THE LEMERY NATIONAL HIGH SCHOOL, AND APPROPRIATING FUNDS THEREFOR

The President. We shall now vote on the bill and the Acting Secretary will call the roll.

The Acting Secretary [Atty. Raval]. Senators

Alvarez	Yes
Angara	Yes
Coseteng	
Drilon	Yes
Enrile	Yes
Fernan	
Flavier	Yes
Gonzales	

RESUMPTION OF SESSION

At 3:41 p.m., the session was resumed.

The President. The session is resumed.

Senator Tatad. Mr. President, I ask that the distinguished Minority Leader be recognized.

The President. The distinguished gentleman from Mandaluyong is recognized.

Senator Gonzales. Mr. President, I just want to be sure on how my vote on Senate Bill No. 2314 was recorded.

The President. On the computerization bill.

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

The President. It is in the affirmative.

Senator Gonzales. May I explain my vote.

The President. The gentleman may proceed.

EXPLANATION OF VOTE OF SENATOR GONZALES

Senator Gonzales. Thank you, Mr. President.

Mr. President and my distinguished colleagues in this Chamber:

It is with misgiving and trepidation that I cast my vote on Senate Bill No. 2314, entitled "An Act Authorizing the Commission on Elections to Use an Automated Election System in the May 11, 1998 National and in Subsequent National and Local Electoral Exercises, and Providing Funds Therefor."

The whole nation has been whipped into frenzy by the promise that the automated system of election, as provided in this bill, will "ensure free, orderly, honest, peaceful and credible elections." Probably, our people, fed up with reports of rampant fraud, the latest of which is the *dagdag-bawas*, are ready to hold on to any straw that promises better elections. The insistence of our people for clean elections is noble indeed because election lies at the heart of democracy. It is the means through which the people, as particles of sovereignty, express and manifest their will.

But promise and reality are two entirely different worlds. In truth, what we provide in this bill is a mongrelized system of election: half-manual and half-automated. Computerization of the

counting and canvass does not result in the computerization of the election. Election is a process consisting of several parts or segments. Counting and canvass are merely parts thereof. The rest of the process under this bill are manualized with the same opportunities for fraud and delay.

The casting of votes is manual. No machine can stop flying voters or spurious voters from voting. After the close of the polls, the Board of Election Inspectors shall prepare and complete the minutes of the voting and thereafter place it inside the ballot box, lock and seal the same with padlocks.

The ballot boxes are then transported to the designated counting center usually in the poblacion where the seat of the municipal government is located. This is a critical stage in the electoral process. Snatching, substitution or destruction of ballot boxes and ballots usually take place at this stage. This stage is manual.

At the counting center, queuing problems will delay the count. Arrival of the ballot boxes shall be logged and ballots are counted per precinct in the order of their arrival.

The members of the Board shall then open the ballot boxes, retrieve all the ballots, count them to determine if there are excess ballots, and segregate the excess ballots in a separate envelope under a process that is tedious. Only then will the members of the Board feed the ballots into the counting machine. Heretofore, the entire process is manual.

The speed of the count will be determined by the arrival and count of the last ballot box which may come from the farthest or far-flung barangay, even across mountains, rivers, lakes, and seas.

After the counting is completed, the process is halted for the tabulation and consolidation of the votes received by all candidates and printing of the election returns per precinct. The election returns shall be signed and thumbmarked by the Board of Election Inspectors of each and every precinct and attested to by the election officer. The Board shall then publicly read and announce the total number of votes obtained by each candidate based on the election returns in every precinct. Copies of the election returns are sealed in separate envelopes for distribution to those entitled to it. Again, this stage is manual and offsets whatever time is gained in the counting machine.

The city/municipal board of canvassers shall then canvass the votes received by all the candidates for national and municipal officials by consolidating the results contained in the data storage device used in the printing of the election returns and print the certificate of canvass for national and elective local

officials and thereafter proclaim the elected city or municipal officials, as the case may be.

The certificates of canvass prepared and authenticated by the city or municipal board of canvassers shall now be manually sent and forwarded to the district or the provincial board of canvassers which shall now canvass the votes for national and elective provincial officials by consolidating the results contained in the data storage devices submitted by the city or municipal board of canvassers. It shall thereafter print the certificates of vote for president, vice president, senators and proclaim the elected members of the House of Representatives and provincial officials.

Sufficient copies of the certificates of canvass for national officials are printed. The first copy shall be sent to Congress, as national canvassing body for the canvass of the election results for president, vice president and party-list candidates; the second copy shall be sent to the Commission on Elections for use in the canvass of the results of the election for senators. Again, transportation or forwarding of the certificates of canvass is manual. In both instances, this bill provides that canvass shall be done by "consolidating the results contained in the data storage devices submitted by the district, provincial and city board of canvassers, and thereafter proclaim the winning candidates."

The ultimate speed of the canvass and proclamation therefore, Mr. President, will be determined by the last certificate of canvass to arrive.

The cap in the timeliness of the proclamation of the President and Vice President is indicated by the Constitution. It provides in the pertinent paragraphs of Section 4 of Article VII that:

The returns of every election for President and Vice-President, duly certified by the board of canvassers of each province or city, shall be transmitted to the Congress, directed to the President of the Senate. Upon receipt of the certificates of canvass, the President of the Senate shall, not later than thirty days after the election, open all the certificates in the presence of the Senate and the House of Representatives in joint public session, and the Congress, upon determination of the authenticity and due execution thereof in the manner provided by law, canvass the votes.

The person having the highest number of votes shall be proclaimed elected, but in case two or more shall have an equal and highest number of votes, one of them shall forthwith be chosen by a vote of a majority of all the Members of both Houses of the Congress, voting separately.

The Congress shall promulgate its rules for the canvassing of the certificates.

Under the approved legislative calendar of Congress, it will adjourn on February 7, 1998. Elections will be on May 11, 1998. The Tenth Congress will resume its Third and last regular session on June 1, 1998. It is the earliest time when it can hold a joint session for the purpose of canvassing and proclaiming the results of the election for President, Vice President and party-list candidates.

Congress under the Constitution determines its rules of procedure for the canvass of the certificates. It expressly provides that the basis of the canvass are the "returns... duly certified by the board of canvassers of each province or city." No law can change that. Can any law change that from the returns to "the data storage devices" which under this bill shall be the basis of the canvass and proclamation? And suppose for any reason, there is variance between the provincial or city certificate of canvass and the data storage device, what happens in such a case? The bill that we are now considering is silent on this point.

In canvassing the results of the 1992 election for President and Vice President, Congress adopted its rules and procedure of the canvass, including the determination of the authenticity and due execution of the certificates of canvass.

Being a political body whose members belong to different political parties and have supported different candidates, the rules embodied all safeguards against cheating, unfairness and irregularities. It allowed candidates or their lawyers to challenge certificates of canvass. It authorized the production and examination of the election returns and statement of votes. In short, it allowed the parties, at least, in part, to go behind the returns.

Even as the canvass was ongoing, it had been suspended a number of times because of the late arrival or completion of the certificates of canvass.

The Eighth Congress, Mr. President, began its canvass on May 26, 1992 and proclaimed the results of the election for President and Vice President on June 22, 1992, or 42 days after the election. This, in spite of the charge by some media practitioner that the presiding officer railroaded the proclamation.

I know all of these, Mr. President, because as Senate President, it was my privilege to preside over the joint session of Congress acting as a national board of canvassers. And I say that under this provision, no machine can shorten the process.

We promise a credible election. Credibility is a function of time. The shorter the time for the proclamation of its results, the less opportunity there is for fraudulent schemes and the more credible the election result is.

We can demand commitment to time. There is absolutely no doubt about it, given all the reliable technology available to us. But we cannot do so because the half-manual and half-automated election system adopted in this bill is shot through with external forces such as human intervention, transportation difficulties, queuing problems, communications breakdown, fraudulent schemes tested in the past, to name a few, because of which no time frame for the completion of the count, canvass and proclamation of the election results in the municipal, city or provincial and national level can be required or committed.

Moreover, there are provisions in the Omnibus Election Code and other election laws which will impact on the cleanliness, honesty, orderliness and credibility of the election which, on the other hand, may delay the canvass and proclamation of the election results. Among them are: disqualification and pre-proclamation proceedings, challenges during the canvass, suspension of canvass by the Commission on Elections, to name a few. Are they repealed or modified? The debates and proceedings on this bill will not enlighten us in one bit.

And how about election contests? Computerization of the elections will not do away with election protests especially in a country where losing candidates do not usually concede defeat, or better still, no candidate is defeated, he is only cheated. The existing laws on election contests are clearly inapplicable to an automated system of election. So what happens? The bill again is eloquently silent on this point.

I am saddened, Mr. President, that with all the promises to our people, we can come up only with this kind of bill. Perhaps commitment to a particular machine, lack of an open mind and determination in availing of the best technology, and the limited time in crafting and debating this bill, what with all the pressures made to bear upon us, account for our failure to come up with a computerized voting system that will perfect the whole exercise.

The key, Mr. President, lies in modernizing the whole electoral process. And this can be done by changing our antiquated laws, even the provision of the Constitution vesting upon Congress the functions and duty of a national board of canvassers for the president and vice president, and choosing the best machines. We are aware that there are more ideal systems out there, only, they are not in accordance with our existing laws. Our laws limit the tremendous capability of modern technology.

I share the dream of many well-meaning citizens and groups of citizens of our country that one day the right system will be in place. Perhaps, a computerized voting system that starts with the precincts, where votes are tallied as they are cast, immediate results are displayed on the screen for the people in the villages to know; election returns forwarded to the municipal board of

canvassers for the generation of the certificates of canvass, and certificates of canvass are forwarded to the city/provincial board of canvassers; certificates of canvass by these boards for national officers, other than the members of the House of Representatives, are to be forwarded by windows or network or via satellite to the Commission on Elections which will now canvass the votes for president, vice president, senators and party-list candidates, and proclaim the results of the election.

Why should Congress, a highly political body, be given the function and powers of a national board of canvassers? This function should be given to the Commission on Elections, an independent constitutional body. Doubts on the integrity and fairness of some of the present members of the Comelec should be no reason against institutional reform.

The political arena will then be leveled and made fair and truth will be allowed to prevail. The ballot process will become a truthful exercise—fair and inexpensive—enticing leaders and visionaries who are cowed by the present system to come out and share their vision with the people.

Probably, Mr. President, we have to begin somewhere. And I consider that Senate Bill No. 2314 is just a beginning although a very expensive one. That is the reason I insisted in my amendments that one of the features of the system is that the machine “must be so designed and built that add-ons may be immediately and at minimum expense incorporated into the system should a total and nationwide computerization or automation from precinct level to canvassing be provided.”

It is all for these reasons, Mr. President, that I vote for Senate Bill No. 2314 with extreme reluctance.

Thank you, Mr. President.

Senator Roco. Mr. President.

The President. The senator from Iloilo raised her hand first.

**STATEMENT OF SENATOR SANTIAGO
(Concurrence and Explanation of Vote of
Senator Gonzales)**

Senator Santiago. Mr. President, this bill of which I am the sponsor has been the product of a particularly convoluted Senate debate, and for that reason, although naturally as sponsor I have voted in the affirmative, with his permission, I would like to associate myself and enter into the *Record* my concurrence with the explanation of the distinguished Minority Leader.

The President. The gentleman from Camarines Sur is recognized.

Senator Roco. Mr. President, may I know how my vote was reflected?

The President. The vote of the gentleman was not recorded because he was not at the hall at that time.

Senator Roco. Yes, Mr. President. May I still record my vote then since the explanation of vote has just ended?

The President. Under the *Rules*, we will just allow the gentleman to indicate how he would have voted if he were present at that time.

EXPLANATION OF VOTE OF SENATOR ROCO

Senator Roco. Just to record that affirmative vote. Mr. President, with all the difficulties of implementing the bill, we, as a Senate now, should study the ways of protecting from fraud the manual system which seems the likely system that will be followed in the elections of May 1998. This will include the watchfulness of the people over the precincts, over the provincial board of canvassers, and even over the National Board of Canvassers when the canvassing results are sent to the Senate President. Those are the things we wish to put on record.

Thank you, Mr. President.

The President. Thank you.

Senator Coseteng. Mr. President.

The President. The lady senator from Quezon City, Negros, and Iloilo, Sen. Anna Dominique Coseteng, is recognized.

Senator Coseteng. Mr. President, I would like to record an affirmative vote.

The President. If the senator were present, let it be recorded that it would have been an affirmative vote.

Senator Macapagal. Mr. President.

The President. What is the pleasure of the lady senator from Pampanga, Pangasinan, and Negros?

Senator Macapagal. May I also be counted as giving an affirmative vote.

The President. Let it be recorded that if the lady senator from Pampanga, Pangasinan, and Negros were present, she would have cast an affirmative vote.

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

CONFERENCE COMMITTEE ON S. NO. 2314/H. NO. 9397 (Automated Election System Act of 1998)

Senator Tatad. Mr. President, I move that we now constitute the Senate panel to the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 2314 and the House counterpart.

I hereby nominate Sen. Marcelo Fernan as chairman and Senators Drilon, Flavier, Angara, Gonzales and Roco as members.

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

CONFERENCE COMMITTEE ON S. NO. 1975/H. NO. _____ (Designation of Sen. Flavier as Chairman and Sens. Honasan and Roco, as Members of the Senate Panel to the Bicameral Conference Committee)

Senator Tatad. Mr. President, I move that we now constitute the Senate panel to the disagreeing provisions of Senate Bill No. 1975 and the House counterpart.

I hereby nominate Senator Juan M. Flavier as chairman, and Senators Honasan and Roco as members.

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

BILL ON SECOND READING H. No. 10095 - General Appropriations Act of 1998 (Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of House Bill No. 10095.

The President. Is there any objection? [*Silence*] There being none, resumption of consideration of House Bill No. 10095 is now in order.

Senator Tatad. We are still in the period of interpellations.

Senator Roco. Mr. President.

The President. The gentleman from Camarines Sur, Sen. Raul S. Roco, is recognized.

DEC. 17, 1997

Senator Herrera. May we include Senator Flavier?

Senator Tatad. And Senator Flavier.

The President. Senator Flavier is so included.

CONFERENCE COMMITTEE REPORT ON
S.NO.2033/H.NO.8622
(Clean Air Act)

Senator Tatad. Mr. President. I move that we now consider the Conference Committee Report on the disagreeing provisions of Senate Bill No. 2033 and House Bill No. 8622. This is the Clean Air Act.

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

Senator Tatad. When this was last called, the Minority Leader sought deferment in order to allow the senator from Isabela to participate in this deliberation.

I ask that the distinguished chairman of the Senate panel, Sen. Orlando S. Mercado, be recognized.

SUSPENSION OF SESSION

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

It was 4:55 p.m.

RESUMPTION OF SESSION

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

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

Senator Tatad. Mr. President, after consulting with the sponsor and the gentleman from Isabela, I hereby temporarily withdraw my motion.

The President. The motion is withdrawn.

CONFERENCE COMMITTEE REPORT ON
S.NO.2314/H.NO.9397
(Automated Election System Act of 1998)

Senator Tatad. Mr. President, I move that we now consider the Conference Committee Report on the disagreeing provisions of Senate Bill No. 2314 and House Bill No. 9397.

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

Senator Tatad. I ask that the distinguished chairman of the Senate panel, the gentleman from Cebu, Sen. Marcelo B. Fernan, be recognized.

The President. The gentleman from Cebu, the distinguished chairman of the Senate Conference Committee panel on the electoral computerization bill, is recognized.

REPORT OF SENATOR FERNAN

Senator Fernan. Thank you, Mr. President.

The Bicameral Conference Committee panel of the Senate headed by this representation, assisted by Senator Franklin M. Dilon, Juan M. Flavier, Neptali A. Gonzales, Raul S. Roco, Gloria Macapagal and Edgardo J. Angara, is submitting this Conference Committee Report on the disagreeing provisions of Senate Bill No. 2314 and House Bill No. 9397.

To start with, Mr. President, the House panel, headed by Rep. Igmidio Tanjuatco, accepted the Senate version which is Senate Bill No. 2314, as amended, and this became the basis for the discussion which lasted for about five hours yesterday.

The changes effected refer to the following in the matter of the title. It was agreed that the Act shall be known as "AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES AND FOR OTHER PURPOSES, PROVIDING FUNDS THEREFOR."

The second matter of discussion and for which an agreement was reached was on the provision regarding merger of precincts and clustering of precincts. It was agreed by both panels that these two provisions be eliminated so as not to confuse the voters in the event that there are mergers made by the Comelec or clustering of precincts are made. Besides, there is the Revised Election Code to fall back to in the event of any urgent changes in the composition of a precinct. So that paragraphs 5 and 6 of Section 2 under the "Definition of Terms" were eliminated.

With respect to the matter of the national ballot, the local ballot and Board of Election Inspectors, this was accepted by the House panel and this became again one of the bases for our discussion.

In the matter of the qualifications, rights and limitations, the other group of inspectors was referred to as the "special

members of the Board of Election Inspectors." The Special Board of Election Inspectors would consist of one additional inspector to the regular Board of Election Inspectors. This is the person who will escort the ballot box for national ballots to the counting center. The other is the operator of the counting machine.

It was provided therein that the qualifications of the special members of the Board of Election Inspectors, referring to the two individuals, should be the same as the qualifications required of the regular members of the Board of Election Inspectors. The additional provision was that they shall enjoy the same rights and be bound by the same limitations and liabilities of a regular member of the Board of Election Inspectors but shall not vote during the proceedings of the Board of Election Inspectors except on matters pertaining to the national ballot.

The duties and functions of the special members of the Board of Election Inspectors remained untouched, and also with Section 5.

Section 6 of the Senate version was accepted by the House because this is the meat of the whole bill, which is to provide for an automated election system nationwide, for the whole country, for the positions of president, vice president, senators, and party organizations or coalitions participating under the party-list system.

It will be noted that the House version provided only for the computerization or automation of 17 highly urbanized places. But after discussion, they yielded to the Senate version. They added a phrase that since it is provided in the Senate version, that "If, in spite of its diligent efforts to implement this mandate in the exercise of this authority, it becomes evident by February 9 that the Commission cannot fully implement the automated election system for national positions in the May 11, 1998 elections, the elections for both national and local positions shall be done manually, EXCEPT"—this is the proviso that was added—"IN THE AUTONOMOUS REGION IN MUSLIM MINDANAO WHERE THE AUTOMATED ELECTION SYSTEM SHALL BE USED FOR ALL POSITIONS."

The idea is, if the manual method of voting is adopted because there is no longer enough time to implement the automated election system, then the 42 machines which now exist should not be wasted and should be put to good use in the Autonomous Region in Muslim Mindanao where it already tried using this machine which turned out to be successful.

The features of the system, as proposed by Sen. Neptali Gonzales, are retained intact, although the Comelec observed that if there is any difficulty complying strictly, it is qualified by the words "as far as practicable"—"THE SYSTEM SHALL AS

FAR AS PRACTICABLE HAVE THE FOLLOWING FEATURES:"

So with that understanding, the House accepted the provisions of Section 7.

There was also a change in the composition of the Advisory Council as proposed by the House panel, to which the Senate panel agreed that, first, in the procurement of the system, the Commission shall adopt an equitable system of deductions or demerits for deviations or deficiencies in meeting all the above-stated features as standards under Senator Gonzales's amendment.

For this purpose, the Commission shall create an Advisory Council—and this was changed—to be composed of technical experts from the Department of Science and Technology, the Information Technology Foundation of the Philippines, the University of the Philippines, and two (2) representatives from the private sector recommended by the Philippine Computer Society. The Council may avail itself of the expertise and services of resource persons of known competence and probity.

Well, there are no changes in Sections 9, 10, and 11—the Official Ballot.

In Section 11, the change that was proposed is that the elections, the registration, the filing of certificate of candidacy, as it was originally pointed out, is 120 days before the elections. This is the general rule. But for purposes of the May 11, 1998 elections, the deadline for filing of the certificate of candidacy for the positions of president, vice president, senators and candidates under the party-list system, as well as petition for registration and/or manifestation to participate in the party-list system shall be on February 9. They felt that January 11 is difficult to comply with.

We received so many calls from senators and congressmen to move this, although we will have to prod the Comelec regarding this change in the date of the deadline which is now February 11. But the deadline for the filing of certificate of candidacy for other positions shall be on March 27, 1998, which is 45 days, the existing deadline for local positions.

It will also be noted that in the Senate version, there was a proviso regarding an elective official running for an office other than the one in which he or she is holding to be considered resigned upon the filing of the certificate of candidacy. This provision was strongly urged by the House panel, although we informed the House panel that many senators felt they are alluded to in this proposal.

It was explained to us, to our satisfaction, that the idea here

was to make sure that upon the filing of his/her certificate of candidacy, he/she is not considered resigned considering the long period of time required, but that he/she should only be considered resigned upon the start of the campaign period corresponding to the position for which he or she is running. This resignation does not apply when one is running for the presidency and vice presidency. That will allay the fears of some members of the Senate.

On the *Official Ballot*, the official ballots shall be printed by the National Printing Office and/or the Bangko Sentral ng Pilipinas, and we inserted the clause "AT THE PRICE COMPARABLE WITH THAT OF THE PRIVATE PRINTERS UNDER PROPER SECURITY MEASURES WHICH THE COMMISSION SHALL ADOPT."

There are no changes in Sections 12, 13 and 14, accepting the Senate version. There are also no changes in Sections 15 and 16.

On the *Designation of Counting Centers*, it was the understanding that for each municipality, there should be at least one counting center so that this proposed law envisions the acquisition of 2,000 voting machines.

There is no change in *Counting Procedure*, Section 17. There is no change in *Election Returns*, Section 18 of the Senate version, which was accepted.

In Sections 19, 20, 21, 22, 23, 24, 25, 26 and 27, the Management Committee was omitted after the Oversight Committee because there are other provisions which also provide for a management group.

With respect to Sections 30, 31, 32, 33, 34 and 35, there are no changes. With the approval by the House panel of the proposals made by the Senate and the Senate in turn accepting some of the counterproposals of the House, then a complete and full agreement was reached by the two panels. The two panels began to affix their signatures this morning and the rest of the members affixed their signatures this afternoon.

So with the submission of this committee report, we hope and pray that our distinguished colleagues will approve the same.

Thank you, Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Mr. President, I move for the approval of the report.

Senator Webb. Mr. President.

The President. The gentleman from Paranaque and Las Piñas, Senator Webb, is recognized.

Senator Webb. Mr. President, may I be allowed to pose some questions?

Senator Fernan. Gladly, Mr. President.

Senator Webb. Mr. President, the gentleman did not mention why the House changed the title from our own title —"AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11 ELECTIONS, NATIONAL OR LOCAL ELECTIONS xxx"

What does this mean? Is there a possibility that the automated system will be used only for local elections?

Senator Fernan. Mr. President, this was proposed by Congressman Tanjuatco. The reason he added the words "national or local" with respect to the May 11 elections is that in the event the Comelec fears that, notwithstanding its diligent efforts, it cannot implement the automated election system and therefore it has to resort now to the manual method of counting the votes, there is still a proviso that with respect to the ARMM elections, the automated election system will still be adopted because of the existence of 42 counting machines. That is why he specified that we should insert the words "national or local" because this will be known by February 10.

Senator Webb. Now I get the reason, Mr. President. So this is more directed to the ARMM elections.

Senator Fernan. That is correct, Mr. President.

Senator Webb. Mr. President, my last question is, I noticed that only three of the nine members of the House panel signed the report. What about the other members?

Senator Fernan. Is the gentleman referring to the House panel, Mr. President?

Senator Webb. Yes, Mr. President.

Senator Fernan. Just to expedite matters, they gave us a copy signed only by the chairman, Congressman Tanjuatco. But their copy also bears the signatures of Speaker de Venecia, Congressman Tinga, and Deputy Speaker Raul Daza. The rest of the signatures will follow sometime this afternoon.

So we will get our copy and distribute another copy containing the signatures of all the members of the House panel.

Senator Webb. I thank the gentleman for that explanation, Mr. President. Does it mean that when the Speaker of the House signs the report, he signs for the rest of the conferees?

The President. The meaning is that with these three additional signatures, a majority has been reached.

Senator Fernan. Yes.

Senator Webb. Thank you very much, Mr. President. I leave it to the discretion of our chairman. I have no further questions.

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

Senator Romulo. Mr. President, will the distinguished sponsor yield for some few clarifications?

Senator Fernan. Gladly, Mr. President, to the gentleman from Quezon City, Tarlac and Bulacan.

Senator Romulo. Mr. President, one of the key provisions here is Section 6, which states:

That the accredited political parties are duly notified of and allowed to observe but not to participate in the bidding. If, in spite of its diligent efforts to implement this mandate in the exercise of this authority, it becomes evident by February 9, 1998 that the Commission cannot fully implement the automated election system for national positions in the May 11, 1998 elections, the elections for both national and local positions shall be done manually except in the Autonomous Region in Muslim Mindanao (ARMM) where the automated election system shall be used for all positions.

Was our amendment—correct me if I am wrong—not February 10?

Senator Fernan. That is correct, Mr. President. But there was a proposal to move this to February 9 in order to make it coincide with the deadline for the filing of the certificates of candidacy which is February 9, as counted by the panel.

Senator Romulo. Actually, Mr. President, I have no objection to that. It is really a well-taken amendment.

Now, just for clarification, therefore, by February 9, if it becomes evident that the Comelec cannot fully implement the automated election system, how will this be made known, Mr. President?

Senator Fernan. I think the Comelec will have to manifest and announce publicly that it would be just impossible for it to implement and so it will now revert to the manual method of voting.

Senator Romulo. This is important because it is good to let the people know, as well as the candidates and everybody, that—assuming Comelec cannot make it—it makes that public announcement.

Senator Fernan. Yes, we made the Comelec officials understand that, Mr. President.

Senator Romulo. Therefore, under this Bicameral Conference Committee Report, if the Comelec says that it cannot implement it and so forth and so on, unlike the Senate version where it all reverts to the manual system, here everything reverts to manual system except in the ARMM, meaning, the four provinces of the ARMM. Is that not correct?

Senator Fernan. That is correct, Mr. President.

Senator Romulo. How many precincts are there in the provinces of the ARMM, Mr. President?

Senator Fernan. Offhand, I do not have the figures, Mr. President, although we consider the figure negligible which they needed, only 42 machines.

Senator Romulo. I see. Will there be clustering in this ARMM election or that is within the discretion and powers of the Comelec?

Senator Fernan. As far as clustering of precincts is concerned, we deleted that particular provision.

Senator Romulo. Yes. So that under this law now, the Comelec may still cluster, is that correct?

Senator Fernan. With respect to making changes in the composition of a precinct, I think the Comelec relies on the Revised Election Code, Mr. President.

Senator Romulo. Where it is allowed or authorized to do clustering?

Senator Fernan. If the distinguished gentleman may call it that. Incidentally, the figure with respect to ARMM is approximately 1.2 million registered voters out of an expected 40 million total.

Senator Romulo. I see. As in the previous question asked, under the Omnibus Election Code, the Comelec may cluster

precincts within the municipality?

Senator Fernan. Yes. In other words, the Comelec can make certain changes in the composition of a precinct.

Senator Romulo. Would the Comelec have the authority under the present law to cluster municipalities or towns?

Senator Fernan. Is the gentleman referring to Senate Bill No. 2314?

Senator Romulo. I am referring to this bill that we have now.

Senator Fernan. Before us?

Senator Romulo. Under the present law.

Senator Fernan. Precisely, the point was raised regarding merger and clustering of precincts—that the same be eliminated. So when that provision was eliminated, we likewise eliminated and deleted the provisions defining what clustering of precincts and merger of precincts mean.

Senator Romulo. That is correct. That was quite clearly stated by the sponsor. But my interest is to know under the present law, not this proposed law. Will clustering still be allowed or is the Comelec authorized to cluster several precincts within the municipality?

The next question is: Is the Comelec allowed to cluster one, two or three municipalities?

Senator Fernan. As far as the precincts are concerned, I think the point was raised by a member of the Senate panel that we should, if possible, avoid clustering and merging of precincts in order not to confuse the voting public.

Senator Romulo. Since it is no longer here in the proposed bill, Comelec, however, may still cluster, although it is enjoined, if possible, not to cluster in order not to confuse the voting public.

Senator Fernan. That is correct, Mr. President. With respect to the municipalities—which was the second question—precisely, they are envisioning 2,000 counting machines because the idea is not to cluster anymore two or more municipalities, but to have at least one counting machine for each municipality.

Senator Romulo. That is good. I think it is good to have all the precincts covered with machines.

May I just ask this before we wind up this clarification. Under

the computerized election procedure that we have now, the ballots that will be filled up and entered into the counting machine will be done not by the old system of writing the names, but by the new system. The names are all there—national and local—but the names of candidates to be elected or to be chosen by the voter will be shaded. Is that correct?

Senator Fernan. Mr. President, actually, there will be two ballots. One ballot for the national offices—president, vice president, senator and the party-list representatives; and the local ballot which is for the representatives down to the municipal councilor.

In the national ballot, the names of the candidates are already there, and that explains why there is a longer period required for the filing of certificates of candidacy. There is a space opposite the name and all the voter has to do is to make a gray mark opposite the name of the candidate of his choice. That is already enough.

Senator Romulo. In other words, the voter has a pencil.

Senator Fernan. Yes.

Senator Romulo. What will he use in order to shade? Is it shading or making a mark?

Senator Fernan. It is shading.

Senator Romulo. So a pencil is used for the shading?

Senator Fernan. Yes.

Senator Romulo. Is there any special equipment?

Senator Fernan. There is a special equipment where the shading will be detected and recorded by the counting machine.

Senator Romulo. I see. So a special pencil-like contraption will be used, the purpose of which is to shade the space opposite the candidate for president. When that is shaded, that would be counted as the vote for that particular candidate.

Senator Fernan. That is correct, Mr. President.

Senator Romulo. If the voter shades two spaces, then that will not register in the machine.

Senator Fernan. It will nullify the ballot.

Senator Romulo. Meaning to say, it will not register.

Senator Fernan. For every position wherein only one person is entitled to be voted upon, there should only be one

shade. The moment there are two shades, it will nullify the ballot.

Senator Romulo. And that is true with the position of vice president and the 12 senators?

Senator Fernan. Yes, depending on the number.

Senator Romulo. And the party-list candidates.

Senator Fernan. That is correct, Mr. President.

Senator Romulo. I see. As to the number of senators, what if they shade 13 or 14, what happens?

Senator Fernan. Again, it will nullify the ballot because only 12 shaded areas should appear.

Senator Romulo. So it will nullify the entire ballot.

Senator Fernan. Yes, the entire ballot.

Senator Romulo. Including the vote for the president and the vice president.

Senator Fernan. I guess so because it is already registered in the machine.

Senator Romulo. How about in the vote for the party-list representatives?

Senator Fernan. In the party-list, again, the names will be there.

Senator Romulo. In other words, they have to vote only for one party.

Senator Fernan. Yes, for one.

Senator Romulo. So if they again shade two parties, it will nullify the ballot.

Senator Fernan. It will nullify the ballot, Mr. President.

Senator Romulo. Mr. President, it is good to clarify this. What if in certain controlled areas only one or two voters come and get several of the ballots to shade? It will be perfectly legal because they will shade only one name for president, one name for vice president, 12 names for senators and one party for the party-list representatives.

As we know, in "controlled" areas, as the name indicates, they are controlled. The leaders assign some of their henchmen to vote. What would happen then?

First, the one who is voting is not the same person in the list of the voters. Second, what if one voter votes for several voters, say, 15 or 20?

Senator Fernan. The use of this kind of ballot does not do away with the vigilance that is required of the parties.

Senator Romulo. That is correct.

Senator Fernan. In other words, if they do not watch carefully the actuations of the Board of Election Inspectors in the distribution of ballots and do not limit a person to just one ballot—of course, subject to one replacement; in other words, if the voter makes a mistake, the ballot is subject to one replacement—this is something that is most unfortunate because of the lack of vigilance on the part of the persons who should have called the attention of the authorities and exerted efforts to prevent what the distinguished gentleman has said is expected to happen.

Senator Romulo. In other words, the role of the Board of Election Inspectors is very crucial here.

Senator Fernan. Yes, it is very crucial. I think these finer details will be provided by the Commission on Elections in a set of rules and regulations. Because under Section 31, the Comelec shall promulgate rules for the implementation and enforcement of this Act. We have to address the difficulties and the confusion because we are adopting a new system nationwide for the first time. They should have enough information to be disseminated.

Senator Romulo. Of course, that is not in this bill. I am just trying to clarify for the people to know that there are limitations to this computerized equipment. There is need for a real honest-to-goodness Board of Election Inspectors to make this work. If the Board of Election Inspectors do not do their job, certainly, such occurrence, as I have just illustrated, can and may happen.

Senator Fernan. Yes, Mr. President. In other words, we still have to be very vigilant.

Senator Romulo. Yes.

Senator Fernan. But it will be a shorter period and there will be minimum human intervention.

Senator Romulo. That is correct, Mr. President. Just to stress this point. It seems that there is a need to assign in the ARMM a very competent and able commissioner.

Senator Fernan. Yes, that is absolutely necessary, Mr. President.

Senator Romulo. Because I am told that unless this is done and the commissioner assigned is lax or inefficient—and I hope not corrupt—then the system can really be messed up. It is also important that a good commissioner is assigned to supervise this area. Would the gentleman not agree with that, Mr. President?

Senator Fernan. Yes, Mr. President. I think all of us should make it a point to remind the chairman and the rest of the Comelec to make sure that someone who is highly competent and who will strictly enforce the rules should be assigned to that area.

Senator Romulo. Just to stress the point further, Mr. President.

I am told that it is necessary not only to have a good and honorable commissioner, but the Philippine Marines should also be assigned there because, of all the law enforcement agencies, the Marines are the less corrupt when it comes to safeguarding the ballots of our country.

Senator Fernan. I will not disagree with the gentleman with respect to that point, Mr. President.

Senator Romulo. On that score, Mr. President, it is quite clear how this computerized election—assuming that the Comelec says that it cannot do it nationwide—should be made to operate at least in the ARMM. And if it is made to operate in this manner with the proper safeguards and proper security by the Philippine Marines, with the good and honorable members of the Commission on Elections, then there is less doubt that this would be a successful computerized election for the ARMM.

Senator Fernan. We hope and pray it will be a success, Mr. President.

Senator Romulo. I would like to thank the gentleman for his patience, Mr. President.

Senator Fernan. Thank you, Mr. President.

Senator Tatad. I reiterate my motion for the approval of the Conference Committee Report.

APPROVAL OF THE CONFERENCE COMMITTEE
REPORT ON S. NO. 2314/H. NO. 9397

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

The following is the whole text of the Conference Committee Report:

Conference Committee Report

The Conference Committee on the disagreeing provisions of Senate Bill No. 2314, entitled

AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, AND PROVIDING FUNDS THEREFOR

and House Bill No. 9397, entitled

AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL AND LOCAL ELECTIONS AND IN SUBSEQUENT ELECTORAL EXERCISES, AND PROVIDING FUNDS THEREFOR,

having met, after full and free conference, has agreed to recommend and do recommend to their respective Houses that Senate Bill No. 2314, in consideration with House Bill No. 9397, be approved in accordance with the attached copy of the bill as reconciled and approved by the conferees.

Approved,

CONFEREES ON THE PART OF THE
HOUSE OF REPRESENTATIVES:

(Sgd.) REP. EMIGIO S. TANJUATCO JR.
Chairman

REP. ALFREDO AMOR E. ABUEG JR.

(Sgd.) REP. DANTE O. TINGA

REP. RALPH G. RECTO

(Sgd.) REP. RAUL V. DAZA

REP. CIRIACO R. ALFELOR

REP. ANTONIO M. ABAYA

REP. EDCEL C. LAGMAN

REP. JOHN HENRY R. OSMEÑA

CONFEREES ON THE PART OF THE SENATE:

(Sgd.) SEN. MARCELO B. FERNAN
Chairman

(Sgd.) SEN. FRANKLIN M. DRILON

(Sgd.) SEN. JUAN M. FLAVIER

(Sgd.) SEN. NEPTALI A. GONZALES

(Sgd.) SEN. RAUL S. ROCO

(Sgd.) SEN. GLORIA MACAPAGAL-ARROYO

(Sgd.) SEN. EDGARDO J. ANGARA

AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

SECTION 1. Declaration of Policy. - It is the policy of the State to ensure free, orderly, honest, peaceful and credible elections, and assure the secrecy and sanctity of the ballot in order that the results of elections, plebiscites, referenda, and other electoral exercises shall be fast, accurate and reflective of the genuine will of the people.

SEC. 2. Definition of Terms. - As used in this Act, the following terms shall mean:

1. *Automated election system* - a system using appropriate technology for voting and electronic devices to count votes and canvass/consolidate results;

2. *Counting machine* - a machine that uses an optical scanning/mark-sense reading device or any similar advanced technology to count ballots;

3. *Data storage device* - a device used to electronically store counting and canvassing results, such as a memory pack or diskette;

4. *Computer set* - a set of equipment containing regular components, i.e., monitor, central processing unit or CPU, keyboard and printer;

5. *National Ballot* - refers to the ballot to be used in the automated election system for the purpose of the May 11, 1998 elections. This shall contain the names of the candidates for president, vice president, senators and parties, organizations or coalitions participating under the party-list system. This ballot shall be counted by the counting machine;

6. *Local Ballot* - refers to the ballot on which the voter will manually write the names of the candidates of his/her choice for member of the House of Representatives, governor, vice governor, members of the provincial board, mayor, vice mayor, and members of the city/municipal council. For the purpose of the May 11, 1998 elections, this ballot will be counted manually;

7. *Board of Election Inspectors* - there shall be a Board of Election Inspectors in every precinct composed of three (3) regular members who shall conduct the voting, counting and recording of votes in the polling place.

For the purpose of the May 11, 1998 elections, there shall be special members composed of a fourth member in each precinct and a Comelec representative who is authorized to operate the counting machine. Both shall conduct the counting and recording of votes of the national ballots in the designated counting centers;

8. *Election returns* - a machine-generated document showing the date of the election, the province, municipality and the precinct in which it is held and the votes in figures for each candidate in a precinct directly produced by the counting machine;

9. *Statement of votes* - a machine-generated document containing the votes obtained by candidates in each precinct in a city/municipality;

10. *City/municipal/district/provincial certificate of canvass of votes* - a machine-generated document containing the total votes in figures obtained by each candidate in a city/municipality/district/province as the case may be; and

11. *Counting center* - a public place designated by the Commission where counting of votes and canvassing/consolidation of results shall be conducted.

SEC. 3. Qualifications, Rights and Limitations of the Special Members of the Board of Election Inspectors. - No person shall be appointed as a special member of the

board of election inspectors unless he/she is of good moral character and irreproachable reputation, a registered voter, has never been convicted of any election offense or of any crime punishable by more than six (6) months imprisonment or if he/she has pending against him/her an information for any election offense or if he/she is related within the fourth civil degree of consanguinity or affinity to any member of the board of election inspectors or any special member of the same board of Election Inspectors or to any candidate for a national position or to a nominee as a party-list representative or his/her spouse. The special members of the board shall enjoy the same rights and be bound by the same limitations and liabilities of a regular member of the board of election inspectors but shall not vote during the proceedings of the board of election inspectors except on matters pertaining to the national ballot.

SEC. 4. Duties and Functions of the Special Members of the Board of Election Inspectors. -

1. During the conduct of the voting in the polling place, the fourth member shall:
 - a. accomplish the minutes of voting for the automated election system in the precinct; and
 - b. ensure that the national ballots are placed inside the appropriate ballot box;
2. On the close of the polls, the fourth member shall bring the ballot box containing the national ballots to the designated counting center;
3. Before the counting of votes, the fourth member shall verify if the number of national ballots tallies with the data in the minutes of the voting;
4. During the counting of votes, the fourth member and the Comelec authorized representative shall jointly accomplish the minutes of counting for the automated election system in the precinct;
5. After the counting of votes, the fourth member and the Comelec authorized representative shall jointly:
 - a. certify the results of the counting of national ballots from the precinct; and
 - b. bring the ballot box containing the counted national ballots together with the minutes of voting and counting, and other election documents and paraphernalia to the city or municipal treasurer for safekeeping.

SEC. 5. Board of Canvassers. - For purposes of the May 11, 1998 elections, each province, city or municipality shall have two (2) board of canvassers, one for the manual election system under the existing law, and the other, for the automated system. For the automated election system, the chairman of the board shall be appointed by the Commission from among its personnel/deputies and the members from the officials enumerated in Section 21 of Republic Act No. 6646.

SEC. 6. Authority to Use an Automated Election System. - To carry out the above-stated policy, the Commission on Elections, herein referred to as the Commission, is hereby authorized to use an automated election system, herein referred to as the System, for the process of voting, counting of votes and canvassing/consolidation of results of the national and local elections. Provided, however, That for the May 11, 1998 elections, the System shall be applicable in all areas within the country only for the positions of president, vice-president, senators and parties, organizations or coalitions participating under the party-list system.

To achieve the purpose of this Act, the Commission is authorized to procure by purchase, lease or otherwise any supplies, equipment, materials and services needed for the holding of the elections by an expedited process of public bidding of vendors, suppliers or lessors: *Provided*, That the accredited political parties are duly notified of and allowed to observe but not to participate in the bidding. If, in spite of its diligent efforts to implement this mandate in the exercise of this authority, it becomes evident by February 9, 1998 that the Commission cannot fully implement the automated election system for national positions in the May 11, 1998 elections, the elections for both national and local positions shall be done manually except in the Autonomous Region in Muslim Mindanao (ARMM) where the automated election system shall be used for all positions.

SEC. 7. Features of the System. - The System shall utilize appropriate technology for voting, and electronic devices for counting of votes and canvassing of results. For this purpose, the Commission shall acquire automated counting machines, computer equipment, devices and materials and adopt new forms and printing materials.

The System shall contain the following features: (a) use of appropriate ballots, (b) stand-alone machine which can count votes and an automated system which can consolidate the results immediately, (c) with pro-

visions for audit trails, (d) minimum human intervention, and (e) adequate safeguard/security measures.

In addition, the System shall as far as practicable have the following features:

1. It must be user-friendly and need not require computer-literate operators;
2. The machine security must be built-in and multi-layer existent on hardware and software with minimum human intervention using latest technology like encrypted coding system;
3. The security key control must be embedded inside the machine sealed against human intervention;
4. The Optical Mark Reader (OMR) must have a built-in printer for numbering the counted ballots and also for printing the individual precinct number on the counted ballots;
5. The ballot paper for the OMR counting machine must be of the quality that passed the international standard like ISO-1831, JIS-X-9004 or its equivalent for optical character recognition;
6. The ballot feeder must be automatic;
7. The machine must be able to count from 100 to 150 ballots per minute;
8. The counting machine must be able to detect fake or counterfeit ballots and must have a fake ballot rejector;
9. The counting machine must be able to detect and reject previously counted ballots to prevent duplication;
10. The counting machine must have the capability to recognize the ballot's individual precinct and city or municipality before counting or consolidating the votes;
11. The System must have a printer that has the capacity to print in one stroke or operation seven (7) copies [original plus six (6) copies] of the consolidated reports on carbonless paper;
12. The printer must have at least 128 kilobytes of Random Access Memory (RAM) to facilitate the expeditious processing of the printing of the consolidated reports;
13. The machine must have a built-in floppy disk

drive in order to save the processed data on a diskette;

14. The machine must also have a built-in hard disk to store the counted and consolidated data for future printout and verification;

15. The machine must be temperature-resistant and rust-proof;

16. The optical lens of the OMR must have a self-cleaning device;

17. The machine must not be capable of being connected to external computer peripherals for the process of vote consolidation;

18. The machine must have an Uninterrupted Power Supply (UPS);

19. The machine must be accompanied with operating manuals that will guide the personnel of the Commission the proper use and maintenance of the machine;

20. It must be so designated and built that add-ons may immediately be incorporated into the system at minimum expense;

21. It must provide the shortest time needed to complete the counting of votes and canvassing of the results of the election;

22. The machine must be able to generate consolidated reports like the election return, statement of votes and certificate of canvass at different levels; and

23. The accuracy of the count must be guaranteed, the margin of error must be disclosed and backed by warranty under such terms and conditions as may be determined by the Commission.

In the procurement of this system, the Commission shall adopt an equitable system of deductions or demerits for deviations or deficiencies in meeting all the above stated features and standards.

For this purpose, the Commission shall create an Advisory Council to be composed of technical experts from the Department of Science and Technology (DOST), the Information Technology Foundation of the Philippines (ITFP), the University of the Philippines (UP), and two (2) representatives from the private sector recommended by the Philippine Computer Society (PCS). The Council may avail itself of the expertise and

services of resource persons of known competence and probity.

The Commission in collaboration with the DOST shall establish an independent Technical Ad Hoc Evaluation Committee, herein known as the Committee, composed of a representative each from the Senate, House of Representatives, DOST and Comelec. The Committee shall certify that the System is operating properly and accurately and that the machines have a demonstrable capacity to distinguish between genuine and spurious ballots.

The Committee shall ensure that the testing procedure shall be unbiased and effective in checking the worthiness of the System. Toward this end, the Committee shall design and implement a reliability test procedure or a system stress test.

SEC. 8. Procurement of Equipment and Materials.

- The Commission shall procure the automated counting machines, computer equipment, devices and materials needed for ballot printing and devices for voting, counting and canvassing from local and foreign sources free from taxes and import duties, subject to accounting and auditing rules and regulations.

SEC. 9. Systems Breakdown in the Counting Center.

- In the event of a systems breakdown of all assigned machines in the counting center, the Commission shall use any available machine or any component thereof from another city/municipality upon the approval of the Commission En Banc or any of its divisions.

The transfer of such machines or any component thereof shall be undertaken in the presence of representatives of political parties and citizens' arm of the Commission who shall be notified by the election officer of such transfer.

There is a systems breakdown in the counting center when the machine fails to read the ballots or fails to store/save results or fails to print the results after it has read the ballots; or when the computer fails to consolidate election results/reports or fails to print election results/reports after consolidation.

SEC. 10. Examination and Testing of Counting Machines. - The commission shall, on the date and time it shall set and with proper notices, allow the political parties and candidates or their representatives, citizens' arm or their representatives to examine and test the

machines to ascertain that the system is operating properly and accurately. Test ballots and test forms shall be provided by the Commission.

After the examination and testing, the machines shall be locked and sealed by the election officer or any authorized representative of the Commission in the presence of the political parties and candidates or their representatives, and accredited citizens' arms. The machines shall be kept locked and sealed and shall be opened again on election day before the counting of votes begins.

Immediately after the examination and testing of the machines, the parties and candidates or their representatives, citizens' arms or their representatives, may submit a written report to the election officer who shall immediately transmit it to the Commission for appropriate action.

SEC. 11. Official Ballot. - The Commission shall prescribe the size and form of the official ballot which shall contain the titles of the positions to be filled and/or the propositions to be voted upon in an initiative, referendum or plebiscite. Under each position, the names of candidates shall be arranged alphabetically by surname and uniformly printed using the same type size. A fixed space where the chairman of the Board of Election Inspectors shall affix his/her signature to authenticate the official ballot shall be provided.

Both sides of the ballots may be used when necessary.

For this purpose, the deadline for the filing of certificate of candidacy/petition for registration/manifestation to participate in the election shall not be later than one hundred twenty (120) days before the elections: *Provided*, That, any elective official, whether national or local, running for any office other than the one which he/she is holding in a permanent capacity, except for president and vice-president, shall be deemed resigned only upon the start of the campaign period corresponding to the position for which he/she is running: *Provided, further*, That, unlawful acts or omissions applicable to a candidate shall take effect upon the start of the aforesaid campaign period. *Provided, finally*, That, for purposes of the May 11, 1998 elections, the deadline for filing of the certificate of candidacy for the positions of President, Vice President, Senators and candidates under the Party-List System as well as petitions for registration and/or manifestation to participate in the Party-List System shall be on February

9, 1998 while the deadline for the filing of certificate of candidacy for other positions shall be on March 27, 1998.

The official ballots shall be printed by the National Printing Office and/or the Bangko Sentral ng Pilipinas at the price comparable with that of private printers under proper security measures which the Commission shall adopt. The Commission may contract the services of private printers upon certification by the National Printing Office/Bangko Sentral ng Pilipinas that it cannot meet the printing requirements. Accredited political parties and deputized citizen's arms of the Commission may assign watchers in the printing, storage and distribution of official ballots.

To prevent the use of fake ballots, the Commission through the Committee shall ensure that the serial number on the ballot stub shall be printed in magnetic ink that shall be easily detectable by inexpensive hardware and shall be impossible to reproduce on a photocopying machine, and that identification marks, magnetic strips, bar codes and other technical and security markings, are provided on the ballot.

The official ballots shall be printed and distributed to each city/municipality at the rate of one (1) ballot for every registered voter with a provision of additional four (4) ballots per precinct.

SEC. 12. *Substitution of Candidates.* - In case of valid substitutions after the official ballots have been printed, the votes cast for the substituted candidates shall be considered votes for the substitutes.

SEC. 13. *Ballot Box.* - There shall be in each precinct on election day a ballot box with such safety features that the Commission may prescribe and of such size as to accommodate the official ballots without folding them.

For the purpose of the May 11, 1998 elections, there shall be two (2) ballot boxes for each precinct, one (1) for the national ballots and one (1) for the local ballots.

SEC. 14. *Procedure in Voting.* - The voter shall be given a ballot by the chairman of the Board of Election Inspectors. The voter shall then proceed to a voting booth to accomplish his/her ballot.

If a voter spoils his/her ballot, he/she may be issued another ballot subject to Section 11 of this Act. No voter may be allowed to change his/her ballot more than once.

After the voter has voted, he/she shall affix his/her thumbmark on the corresponding space in the voting record. The chairman shall apply indelible ink on the voter's right forefinger and affix his/her signature in the space provided for such purpose in the ballot. The voter shall then personally drop his/her ballot on the ballot box.

For the purpose of the May 11, 1998 elections, each voter shall be given one (1) national and one (1) local ballot by the Chairperson. The voter shall, after casting his/her vote, personally drop the ballots in their respective ballot boxes.

SEC. 15. *Closing of Polls.* - After the close of voting, the board shall enter in the minutes the number of registered voters who actually voted, the number and serial number of unused and spoiled ballots, the serial number of the self-locking metal seal to be used in sealing the ballot box. The board shall then place the minutes inside the ballot box and thereafter close, lock and seal the same with padlocks, self-locking metal seals or any other safety devices that the Commission may authorize. The chairman of the Board of Election Inspectors shall publicly announce that the votes shall be counted at a designated counting center where the board shall transport the ballot box containing the ballots and other election documents and paraphernalia.

For the purpose of the May 11, 1998 elections, the chairman of the Board of Election Inspectors shall publicly announce that the votes for president, vice-president, senators and parties, organizations or coalitions participating in the party-list system shall be counted at a designated counting center. During the transport of the ballot box containing the national ballots and other documents, the fourth member of the board shall be escorted by representatives from the Armed Forces of the Philippines or from the Philippine National Police, citizens' arm, and if available, representatives of political parties and candidates.

SEC. 16. *Designation of Counting Centers.* - The Commission shall designate counting center(s) which shall be a public place within the city/municipality or in such other places as may be designated by the Commission when peace and order conditions so require, where the official ballots cast in various precincts of the city/municipality shall be counted. The election officer shall post prominently in his/her office, in the bulletin boards at the city/municipal hall and in three (3) other conspicuous places in the city/municipality, the notice

on the designated counting center(s) for at least fifteen (15) days prior to election day.

For the purpose of the May 11, 1998 elections, the Commission shall designate a central counting center(s) which shall be a public place within the city or municipality, as in the case of the National Capital Region and in highly urbanized areas. The Commission may designate other counting center(s) where the national ballots cast from various precincts of different municipalities shall be counted using the automated system. The Commission shall post prominently a notice thereof, for at least fifteen (15) days prior to election day in the office of the election officer, on the bulletin boards at the municipal hall and in three (3) other conspicuous places in the municipality.

SEC. 17. Counting Procedure. - (a) The counting of votes shall be public and conducted in the designated counting center(s).

- (b) The ballots shall be counted by the machine by precinct in the order of their arrival at the counting center. The election officer or his/her representative shall log the sequence of arrival of the ballot boxes and indicate their condition. Thereafter, the board shall, in the presence of the watchers and representatives of accredited citizens' arm political parties/candidates, open the ballot box, retrieve the ballots and minutes of voting. It shall verify whether the number of ballots tallies with the data in the minutes. If there are excess ballots, the poll clerk, without looking at the ballots, shall publicly draw out at random ballots equal to the excess and without looking at the contents thereof, place them in an envelope which shall be marked "excess ballots". The envelope shall be sealed and signed by the members of the board and placed in the compartment for spoiled ballots.
- (c) The election officer or any authorized official or any member of the board shall feed the valid ballots into the machine without interruption until all the ballots for the precincts are counted.
- (d) The board shall remain at the counting center until all the official ballots for the precinct are counted and all reports are properly accomplished.

For the purpose of the May 11, 1998 elections, the ballots shall be counted by precinct by the special members of the Board in the manner provided in paragraph (b) hereof.

SEC. 18. Election Returns. - After the ballots of the precincts have been counted, the election officer or any official authorized by the Commission shall, in the presence of watchers and representatives of the accredited citizens' arm, political parties/candidates, if any, store the results in a data storage device and print copies of the election returns of each precinct. The printed election returns shall be signed and thumbmarked by the fourth member and Comelec authorized representative and attested to by the election officer or authorized representative. The Chairman of the Board shall then publicly read and announce the total number of votes obtained by each candidate based on the election returns. Thereafter, the copies of the election returns shall be sealed and placed in the proper envelopes for distribution as follows:

A. In the election of president, vice-president, senators and party-list system:

(1) The first copy shall be delivered to the city or municipal board of canvassers;

(2) The second copy, to the Congress, directed to the President of the Senate;

(3) The third copy, to the Commission;

(4) The fourth copy, to the citizens' arm authorized by the Commission to conduct an unofficial count. In the conduct of the unofficial quick count by any accredited citizens' arm, the Commission shall promulgate rules and regulations to ensure, among others, that said citizens' arm releases in the order of their arrival one hundred percent (100%) results of a precinct indicating the precinct, municipality or city, province and region: *Provided, however,* That the count shall continue until all precincts shall have been reported.

(5) The fifth copy, to the dominant majority party as determined by the Commission in accordance with law;

(6) The sixth copy, to the dominant minority party as determined by the Commission in accordance with law; and

(7) The seventh copy shall be deposited inside the compartment of the ballot box for valid ballots.

The citizens' arm shall provide copies of the election returns at the expense of the requesting party.

For the purpose of the May 11, 1998 elections, after the national ballots have been counted, the Comelec authorized representative shall implement the provisions of paragraph A hereof.

B. In the election of local officials and members of the House of Representatives:

(1) The first copy shall be delivered to the city or municipal board of canvassers;

(2) The second copy, to the Commission;

(3) The third copy, to the provincial board of canvassers;

(4) The fourth copy, to the citizens' arm authorized by the Commission to conduct an unofficial count. In the conduct of the unofficial quick count by any accredited citizens' arm, the Commission shall promulgate rules and regulations to ensure, among others, that said citizens' arm releases in the order of their arrival one hundred percent (100%) results of a precinct indicating the precinct, municipality or city, province and region. *Provided, however,* That the count shall continue until all precincts shall have been reported.

(5) The fifth copy, to the dominant majority party as determined by the Commission in accordance with law;

(6) The sixth copy, to the dominant minority party as determined by the Commission in accordance with law; and

(7) The seventh copy shall be deposited inside the compartment of the ballot box for valid ballots.

* The citizens' arm shall provide copies of election returns at the expense of the requesting party.

After the votes from all precincts have been counted, a consolidated report of votes for each candidate shall be printed.

After the printing of the election returns, the ballots shall be returned to the ballot box, which shall be locked,

sealed and delivered to the city/municipal treasurer for keeping. The treasurer shall immediately provide the Commission and the election officer with a record of the serial numbers of the ballot boxes and the corresponding metal seals.

SEC. 19. *Custody and Accountability of Ballots.* - The election officer and the treasurer of the city/municipality as deputy of the Commission shall have joint custody and accountability of the official ballots, accountable forms and other election documents as well as ballot boxes containing the official ballots cast. The ballot boxes shall not be opened for three (3) months unless the Commission orders otherwise.

SEC. 20. *Substitution of Chairman and Members of the Board of Canvassers.* - In case of non-availability, absence, disqualification due to relationship, or incapacity for any cause of the chairman, the Commission shall appoint as substitute, a ranking lawyer of the Commission. With respect to the other members of the board, the Commission shall appoint as substitute the following in the order named: the provincial auditor, the register of deeds, the clerk of court nominated by the executive judge of the regional trial court, or any other available appointive provincial official in the case of the provincial board of canvassers; the officials in the city corresponding to those enumerated, in the case of the city board of canvassers; and the municipal administrator, the municipal assessor, the clerk of court nominated by the judge of the municipal trial court, in the case of the municipal board of canvassers.

SEC. 21. *Canvassing by Provincial, City, District and Municipal Boards of Canvassers.* - The city or municipal board of canvassers shall canvass the votes for the president, vice-president, senators, and parties, organizations or coalitions participating under the party-list system by consolidating the results contained in the data storage devices used in the printing of the election returns. Upon completion of the canvass, it shall print the certificate of canvass of votes for president, vice-president, senators and members of the House of Representatives and elective provincial officials and thereafter, proclaim the elected city or municipal officials, as the case may be.

The city board of canvassers of cities comprising one (1) or more legislative districts shall canvass the votes for president, vice-president, senators, members of the House of Representatives and elective city officials by consolidating the results contained in the data storage

devices used in the printing of the election returns. Upon completion of the canvass, the board shall print the canvass of votes for president, vice-president, and senators and thereafter, proclaim the elected members of the House of Representatives and city officials.

In the Metro Manila area, each municipality comprising a legislative district shall have a district board of canvassers which shall canvass the votes for president, vice-president, senators, members of the House of Representatives and elective municipal officials by consolidating the results contained in the data storage devices used in the printing of the election returns. Upon completion of the canvass, it shall print the certificate of canvass of votes for president, vice-president, and senators and thereafter, proclaim the elected members of the House of Representatives and municipal officials.

Each component municipality in a legislative district in the Metro Manila area shall have a municipal board of canvassers which shall canvass the votes for president, vice-president, senators, members of the House of Representatives and elective municipal officials by consolidating the results contained in the data storage devices used in the printing of the election returns. Upon completion of the canvass, it shall prepare the certificate of canvass of votes for president, vice-president, senators, members of the House of Representatives and thereafter, proclaim the elected municipal officials.

The district board of canvassers of each legislative district comprising two (2) municipalities in the Metro Manila area shall canvass the votes for president, vice-president, senators and members of the House of Representatives by consolidating the results contained in the data storage devices submitted by the municipal board of canvassers of the component municipalities. Upon completion of the canvass, it shall print a certificate of canvass of votes for president, vice-president and senators and thereafter, proclaim the elected members of the House of Representatives in the legislative district.

The district/provincial board of canvassers shall canvass the votes for president, vice-president, senators, members of the House of Representatives and elective provincial officials by consolidating the results contained in the data storage devices submitted by the board of canvassers of the municipalities and component cities. Upon completion of the canvass, it shall print the

certificate of canvass of votes for president, vice-president and senators and thereafter, proclaim the elected members of the House of Representatives and the provincial officials.

The municipal, city, district and provincial certificates of canvass of votes shall each be supported by a statement of votes.

The Commission shall adopt adequate and effective measures to preserve the integrity of the data storage devices at the various levels of the boards of canvassers.

SEC. 22. Number of Copies of Certificate of Canvass of Votes and Their Distribution. - (a) The certificate of canvass of votes for president, vice-president, senators, members of the House of Representatives, parties, organizations or coalitions participating under the party-list system and elective provincial officials shall be printed by the city or municipal board of canvassers and distributed as follows:

(1) The first copy shall be delivered to the provincial board of canvassers for use in the canvass of election results for president, vice-president, senators, members of the House of Representatives, parties, organizations or coalitions participating under the party-list system and elective provincial officials;

(2) The second copy shall be sent to the Commission;

(3) The third copy shall be kept by the chairman of the board; and

(4) The fourth copy shall be given to the citizens' arm designated by the Commission to conduct an unofficial count. It shall be the duty of the citizens' arm to furnish independent candidates copies of the certificate of canvass at the expense of the requesting party.

The board of canvassers shall furnish all registered parties copies of the certificate of canvass at the expense of the requesting party.

(b) The certificate of canvass of votes for president, vice-president and senators, parties, organizations or coalitions participating under the party-list system shall be printed by the city boards of

canvassers of cities comprising one or more legislative districts, by provincial boards of canvassers and by district boards of canvassers in the Metro Manila area, and other highly urbanized areas and distributed as follows:

(1) The first copy shall be sent to Congress, directed to the president of the Senate for use in the canvass of election results for president and vice-president;

(2) The second copy shall be sent to the Commission for use in the canvass of the election results for senators;

(3) The third copy shall be kept by the chairman of the board; and

(4) The fourth copy shall be given to the citizens' arm designated by the Commission to conduct an unofficial count. It shall be the duty of the citizens' arm to furnish independent candidates copies of the certificate of canvass at the expense of the requesting party.

The board of canvassers shall furnish all registered parties copies of the certificate of canvass at the expense of the requesting party.

(c) The certificates of canvass printed by the provincial, district, city or municipal boards of canvassers shall be signed and thumbmarked by the chairman and members of the board and the principal watchers, if available. Thereafter, it shall be sealed and placed inside an envelope which shall likewise be properly sealed.

In all instances, where the Board of Canvassers has the duty to furnish registered political parties with copies of the certificate of canvass, the pertinent election returns shall be attached thereto, where appropriate.

SEC. 23. National Board of Canvassers for Senators.

- The chairman and members of the Commission on Elections sitting En Banc, shall compose the national board of canvassers for senators. It shall canvass the results for senators by consolidating the results contained in the data storage devices submitted by the district, provincial and city boards of canvassers of those cities which comprise one or more legislative districts. Thereafter, the national board shall proclaim the winning candidates for senators.

SEC. 24. Congress as the National Board of Canvassers for President and Vice-President. - The Senate and the House of Representatives in joint public session shall compose the national board of canvassers for president and vice-president. The returns of every election for president and vice-president duly certified by the board of canvassers of each province or city, shall be transmitted to the Congress, directed to the president of the Senate. Upon receipt of the certificates of canvass, the president of the Senate shall, not later than thirty (30) days after the day of the election, open all the certificates in the presence of the Senate and the House of Representatives in joint public session, and the Congress upon determination of the authenticity and the due execution thereof in the manner provided by law, canvass all the results for president and vice-president by consolidating the results contained in the data storage devices submitted by the district, provincial and city boards of canvassers and thereafter, proclaim the winning candidates for president and vice-president.

SEC. 25. Voters' Education. - The Commission together with and in support of accredited citizens' arms shall carry out a continuing and systematic campaign through newspapers of general circulation, radio and other media forms, as well as through seminars, symposia, fora and other non-traditional means to educate the public and fully inform the electorate about the automated election system and inculcate values on honest, peaceful and orderly elections.

SEC. 26. Supervision and Control. - The System shall be under the exclusive supervision and control of the Commission. For this purpose, there is hereby created an information technology department in the Commission to carry out the full administration and implementation of the System.

The Commission shall take immediate steps as may be necessary for the acquisition, installation, administration, storage, and maintenance of equipment and devices, and to promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 27. Oversight Committee. - An Oversight Committee is hereby created composed of three (3) representatives each from the Senate and the House of Representatives and three (3) from the Commission on Elections to monitor and evaluate the implementation of this Act. A report to the Senate and the House

of Representatives shall be submitted within ninety (90) days from the date of election.

The oversight committee may hire competent consultants for project monitoring and information technology concerns related to the implementation and improvement of the modern election system. The oversight committee shall be provided with the necessary funds to carry out its duties.

SEC. 28. Designation of Other Dates for Certain Pre-election Acts. - If it shall no longer be reasonably possible to observe the periods and dates prescribed by law for certain pre-election acts, the Commission shall fix other periods and dates in order to ensure accomplishment of the activities so voters shall not be deprived of their suffrage.

SEC. 29. Election Offenses. - In addition to those enumerated in Sections 261 and 262 of Batas Pambansa Blg. 881, As Amended, the following acts shall be penalized as election offenses, whether or not said acts affect the electoral process or results:

(a) Utilizing without authorization, tampering with, destroying or stealing:

(1) Official ballots, election returns, and certificates of canvass of votes used in the System; and

(2) Electronic devices or their components, peripherals or supplies used in the System, such as counting machine, memory pack/diskette, memory pack receiver, and computer set;

(b) Interfering with, impeding, absconding for purpose of gain, preventing the installation or use of computer counting devices and the processing, storage, generation and transmission of election results, data or information; and

(c) Gaining or causing access to using, altering, destroying or disclosing any computer data, program, system software, network, or any computer-related devices, facilities, hardware or equipment, whether classified or declassified.

SEC. 30. Applicability. - The provisions of Batas Pambansa Blg. 881, As amended, otherwise known as the "Omnibus Election Code of the Philippines", and other election laws not inconsistent with this Act shall apply.

SEC. 31. Rules and Regulations. - The Commission shall promulgate rules and regulations for the implementation and enforcement of this Act including such measures that will address possible difficulties and confusions brought about by the two-ballot system. The Commission may consult its accredited citizens' arm for this purpose.

SEC. 32. Appropriations. - The amount necessary to carry out the provisions of this Act shall be charged against the current year's appropriations of the Commission. Thereafter, such sums as may be necessary for the continuous implementation of this Act shall be included in the annual General Appropriations Act.

In case of deficiency in the funding requirements herein provided, such amount as may be necessary shall be augmented from the current contingent fund in the General Appropriations Act.

SEC. 33. Separability Clause. - If, for any reason, any section or provision of this Act or any part thereof, or the application of such section, provision or portion is declared invalid or unconstitutional, the remainder thereof shall not be affected by such declaration.

SEC. 34. Repealing Clause. - All laws, presidential decrees, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 35. Effectivity. - This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Approved,

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

Senator Romulo. Mr. President, I would just like to reserve my right to submit my vote for this. I am voting in favor, but I would like to submit an extended explanation of my vote.

As of press time, no extended explanation of vote has been submitted by the office of Senator Romulo.

The President. The reservation is noted.

The Chair records a vote of abstention and would later submit a written explanation of it.

The following is the written explanation of vote of abstention of Senate President Maceda:

The fate and destiny of our nation to lure into progress and prosperity do not lie solely on our strong commitment to democratic ideals and principles. However, without faith in the principles of democracy, one country cannot move: people will forever cherish freedom and aspirations for self-respect, right to choose and to live freely. The right of suffrage enshrined under our Constitution is one of the important fundamental rights enjoyed by all citizens of a free loving democratic nation.

Ensuring free, orderly, honest, peaceful and credible election is a very important objective in giving essence and respect to the right of suffrage. Moreover, clean election is the soul of democracy, and the only way by which people exercise their sovereign right and participate in the choosing of who will govern them.

Now the people are frantic and apprehensive whether the forthcoming 1998 elections will be orderly and honest. The experience in the *dagdag-bawas* is still creeping in tears and that this grand devil design has led to subversion of the people's right. Pressure groups are now calling for a computerization of the electoral system. The question can now be tossed whether this computerization is the answer for holding a free and honest election.

I have a great admiration to countries already adopting a modernized poll system. After a day of election, you can already know who won in the election. But these countries have gone into the several stages of development and are far more industrialized. Moreover, these countries have greater experiences in computerization. Legal protection on computer fraud is included among their safeguards.

I too have a dream that someday our nation can have that system. Perhaps, I often asked myself, whether this bill can be an initial step or an attempt to achieve a complete modernized poll system. But taking a full breath on the proposed measure, I am deeply troubled by the following factors:

a. Computerization vs. Election Protests

Needless to state that in every election, hundreds of election protests are lodged. This is because part of our political milieu, losing candidates do not usually concede defeat. Our existing laws on election are inapplicable to an automated system of election. The proposed measure is silent as regards this point. In this case, more problems, perceived and unperceived, may crop up.

b. The Establishment of a Trend

Article VII, Section 4 of the Constitution states that:

The returns of every election for President and Vice-President, duly certified by the board of canvassers of each province or city, shall be transmitted to the Congress, directed to the President of the Senate. Upon receipt of the certificates of canvass, the President of the Senate shall, not later than thirty days after the day of election, open all the certificates in the presence of the Senate and the House of Representatives in joint public session, and the Congress, upon determination of the authenticity and due execution thereof in the manner provided by law, canvass the votes.

The person having the highest number of votes shall be proclaimed elected, but in case two or more shall have an equal and highest number of votes, one of them shall forthwith be chosen by the vote of a majority of all the Members of both Houses of the Congress, voting separately.

The Congress shall promulgate its rules for the canvassing of the certificates.

It is worthy to point out that the Constitution is fundamental law of the land to which all other laws must conform. No matter how fast the machine can count or register the ballots cast for President and Vice-President, it is only Congress, upon determination of the authenticity and due execution thereof, in the manner provided by law, that will canvass the votes. The data that may be advanced by the machines may lead to the establishment of a trend that one is already ahead or, in other words, winning over the others. Conspicuously, one candidate who will enjoy the unofficial trend will most likely claim he is the winner. The official results of the canvass whether different or indifferent will thus result into confusion among the electorate.

These schemes and scenarios are also applicable to the election for members of the Senate which under our present law must be officially proclaimed by the Commission on Elections (Comelec).

c. Timeliness as an Important Factor

Majority of the members of the Comelec are apprehensive whether they can fully implement the computerization of the election. Considering time as an important factor, Comelec has to set up implementing guidelines such as on the procurement, evaluation of the machines, training of the operators of the machines and several others.

d. Inadequacy of Applicable Laws Regarding Computer Frauds

The great contribution of an automated system to mankind's activities is astounding. With the current progress of information technology, one world has been put in line. But no matter how advance the information technology can partake in human activities, man who has invented this system can cause destruction. There are so-called computer hackers who can influence the program. If this is so, the sanctity of our electoral process may be in danger. Unlike in U.S., Canada and Europe where safeguards against computer frauds are in place, our country has yet to make adequate measures to prevent fraud in computer technology.

Taking cue from the enumerated factors, I am aopretic with the perceived dangerous effect of the measure. I have respect for the proponents of this noble measure, but I am in a quagmire whether this nobler task may create order and peace in our society. The problems that may crop up from this measure are both perceived and real. It is perceived because it may create clear and present danger of influencing the outcome of the election. And it is real because Comelec has yet to come up with a complete design to fully implement the system, notwithstanding the time it has to debacle. It is in this sense that voters' right may not be freely exercised.

So, I feel that at this instance I should not vote "yes." But because of its purpose of ensuring a free and honest elections, even if it is a toothless tiger, it is also improper for me to dissent. I am therefore abstaining from voting on Senate Bill No. 2314.

Senator Tatad. Mr. President, with the consent of the

Chamber, I move that the Additional Reference of Business pertaining to Committee Reports be considered as having been read without prejudice to their full texts being inserted into the *Record* and *Journal*, respectively.

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

ADDITIONAL REFERENCE OF BUSINESS

COMMITTEE REPORTS

The Secretary. Committee Report No. 847, submitted by the Committee on Public Services on House Bill No. 6310, introduced by Representative Jaafar, *et al.*, entitled

AN ACT GRANTING THE BONGAO NATION-WIDE TELEPHONE SYSTEM, INCORPORATED, A FRANCHISE TO CONSTRUCT, INSTALL, MAINTAIN, ESTABLISH AND OPERATE LOCAL EXCHANGE NETWORK IN THE MUNICIPALITY OF BONGAO, PROVINCE OF TAWI-TAWI,

recommending its approval with amendments by substitution.

Abstaining: Senator Romulo

Sponsor: Senator Herrera

The President. To the Calendar for Ordinary Business

The Secretary. Committee Report No. 848, submitted by the Committee on Public Services on House Bill No. 8442, introduced by Representative Tinga, *et al.*, entitled

AN ACT GRANTING THE QUIRINO BROADCASTING CORPORATION A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN RADIO AND TELEVISION BROADCASTING STATIONS IN THE PROVINCE OF QUIRINO,

recommending its approval with amendments by substitution.

Abstaining: Senator Romulo

Sponsor: Senator Herrera

The President. To the Calendar for Ordinary Business

The Secretary. Committee Report No. 849, submitted by