

RECORD OF THE SENATE

FRIDAY, DECEMBER 4, 1987

OPENING OF THE SESSION

At 10:25 a.m., the Honorable Jovito R. Salonga, President of the Senate, called the session to order.

The President. The session of the Senate is called to order.

The prayer of Senator Laurel who is indisposed will be delivered by the Majority Floor Leader.

Everybody remained standing for the prayer.

PANALANGIN

Senator Mercado.

Diyos na Makapangyarihan, dinggin Mo ang panalangin ng Iyong mga anak na ngayon ay naghihirap at tumatangis sa labis na pagdaralita. Sa gitna ng dimaulatang pagtutunggali na lumiligalig sa buong bansa at walang habag na naghasik ng hirap, gutom, salot, at kamatayan, pinararating namin sa Iyo ang aming mga mapagkumbabang tinig.

Dahil sa Iyo, kami ay may sariling bayan, may sariling buhay, may pag-asa at may tunay na pananampalataya. Dahil sa Iyo, tinanggap ng aming mga magulang ang kabanalang ugali na naging hiyas ng kanilang buhay. Dahil sa Iyo, tinanggap ng aming mga bayani ang tapang at lakas ng loob sa pagtatanggol ng aming mithiin. Ikaw, Panginoon namin, ang aming tinatawagan at dinadaingan sa gitna ng sapin-saping kahirapan at pagluha.

O, Panginoong mapagmahal! Salamat na walang humpay sa lahat ng mga biyayang Iyong ipinagkaloob sa amin. Igawad Mong patuloy ang Iyong pag-ampon at pagpapaalala sa aming lahat. Liwanagan Mo ang aming isip, patapangin Mo ang aming loob, ituro Mo sa amin ang matu-

wid na landas upang matupad namin ang sinumpaang tungkulin sa Inang Bayan.

Siyá nawa.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary.

Senator Heherson T. Alvarez	Present*
Senator Edgardo J. Angara	Present
Senator Agapito A. Aquino	Present
Senator Juan Ponce Enrile	Present
Senator Joseph Ejercito Estrada	Present
Senator Neptali A. Gonzales	Present
Senator Teofisto T. Guingona, Jr.	Present
Senator Ernesto F. Herrera	Absent
Senator Sotero H. Laurel	Absent
Senator Jose D. Lina, Jr.	Present
Senator Ernesto M. Maceda	Present
Senator Orlando S. Mercado	Present
Senator John H. Osmeña	Absent
Senator Vicente T. Paterno	Present
Senator Aquilino Q. Pimentel, Jr.	Present
Senator Santanina T. Rasul	Absent
Senator Alberto G. Romulo	Present
Senator Rene A. V. Saguisag	Present
Senator Leticia Ramos Shahani	Present*
Senator Mamintal Abdul J. Tamano	Present
Senator Wigberto E. Tañada	Present*
Senator Victor S. Ziga	Present*
The President	Present

The President. With 15 Senators present, there is a quorum.

THE JOURNAL

Senator Mercado. Mr. President, I move that we dispense with the reading of the *Journal* of yesterday's session and consider the same as approved.

The President. Is there any objection? [*Silence*] The Chair hears none; the same is approved.

*Arrived after the roll call

The Majority Floor Leader.

Senator Mercado. Mr. President, if there are no other amendments, I move that we close the period of amendments and vote on Senate Bill No. 82 on Second Reading.

The President. Is there any objection to the approval of Senate Bill No. 82 on Second Reading?

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. Mr. President, for the record, I would like to state a reservation in view of the fact that when we voted on it in the amendments, it was by *viva voce* and not by nominal voting. I am not objecting, Mr. President. I am just expressing my reservation about the limitation of the applicability of this Act to a period of 20 years, with regard to which, with due respect to the Gentleman from Aurora, I have some constitutional reservations on that matter.

Thank you, Mr. President.

Senator Saguisag. Mr. President.

The President. Senator Saguisag is recognized.

Senator Saguisag. Thank you, Mr. President. I would like to share that same reservation. This sounds as if we are passing a law that should not be repealed for the next 20 years.

So I think there is really a constitutional dimension in regard to that provision.

Thank you, Mr. President.

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized.

Senator Enrile. Mr. President, I am not objecting to this measure. In fact, I will vote in favor of it on Second Reading. I also wish to state my reservation with respect to the 20-

year period which is the extent of its effectiveness in view of the fact that the Constitution adopted as one of its state policies the prohibition against political dynasties. The only thing left for Congress to do is to define what is a political dynasty.

So therefore, I would like also to state the same reservation.

The President. Are there any other observations?

That will not prevent Congress at any time to modify or repeal this law. And there is nothing to prevent Congress from extending the applicability of this law.

APPROVAL ON SECOND READING OF
SENATE BILL NO. 82, AS AMENDED
(Political Dynasties)

Senator Mercado. Mr. President, I move for the approval of the bill as amended, on Second Reading.

The President. We shall now vote on the bill as amended, on Second Reading.

As many as are in favor of the bill as amended will please say *Aye*. [*Several members said Aye.*] As many as are against please say *Nay*. [*Silence*] The *Ayes* have it. Senate Bill No. 82, as amended, is approved on Second Reading.

Senator Mercado. Mr. President.

The President. The Majority Floor Leader.

CONFERENCE COMMITTEE REPORT
ON HOUSE BILL NO. 2696
(The Manner of Filling a Vacancy in Congress)

Senator Mercado. I move that we consider Committee Report No. 67 on House Bill No. 2696, submitted by the Committee on Electoral Reforms and People's Participation, entitled

AN ACT PRESCRIBING THE MANNER OF
FILLING A VACANCY IN THE CONGRESS
OF THE PHILIPPINES.

I move that Senator Gonzales be recognized to sponsor the bill.

The President. Senator Gonzales is recognized.

SPONSORSHIP SPEECH OF SENATOR GONZALES

Senator Gonzales. G. Pangulo, mayroon pong kasabihan ang mga Tagalog na ang mga pulitiko raw, kasama ang mga Senador at mga Kongresista ay katulad ng masasamang damong matagal mamatay, pero namamatay din sa kalaunan. [*Laughter*]

Sa katunayan, ang Mababang Kapulungan ay mayroon po ngayong dalawang bakante. Ang una ay bunga ng pagkamatay sa isang aksidente ni Kongresista Moises Tapia ng Catanduanes. Ang ikalawa ay bunga sa pagkakahirang ni Kongresista Luis Santos ng Davao City bilang Kalihim ng Kagawaran ng mga Pamahalaang Lokal.

Maging sa Senado ay mayroon ding vacancy ngayon. Ito ay bunga ng pagkakahirang sa ating iginagalang at minamahal na Senador Raul Manglapus bilang Kalihim ng Kagawaran ng Suliraning Panlabas.

The Constitution provides in Section 9, Article VI that:

In case of vacancy in the Senate or in the House of Representatives, a special election may be called to fill such vacancy in the manner prescribed by law, but the Senator or Member of the House of Representatives thus elected shall serve only for the unexpired term.

House Bill No. 2696 seeks to provide by law the manner of filling such a vacancy; whether or not that vacancy will be filled in the manner herein prescribed will also ultimately depend upon the decision of either House. There is nothing that mandates each House to call a special election. The idea is to set the mechanism for the filling of such vacancy, but leaving to

either House the decision of whether to fill that vacancy or not.

Under Section 1 of House Bill No. 2696:

In case a vacancy arises in the Senate at least 18 months or in the House of Representatives at least 9 months before the next regular election for Members of Congress, the Commission on Elections as soon as it is notified of the existing vacancy by resolution of the Senate or House of Representatives through the Senate President or Speaker, as the case may be, shall call a special election to fill such vacancy. The Senator or Member of the House thus elected shall serve only for the unexpired term.

Personally, I would want the nine months period provided here to be amended to at least one year, in order that the one to be elected in that special election may serve for a substantial period and thereby at least justify the expenses to be incurred in that special election. I feel that if it be six months the vacancy should occur at least nine months; that would be too short because the special election may be called about 60 days thereafter and leaving the one to be elected only about six or seven months to serve. That, in my view, may not justify the expenditures of public funds utilized for purposes of that special election.

Sec. 2. Such a call by the Commission on Elections shall fix the date of the special election, which shall not be earlier than thirty (30) days nor later than ninety (90) days from the date of such resolution, stating among others the office or offices to be voted for; Provided, however, That if within the said period a general election is scheduled to be held, the special election shall be held simultaneously with such general election.

Now, in case of a vacancy in the House, Mr. President, if this Bill shall become a law and there is still time, then the House may approve a resolution calling a special election to fill the vacancy, and the call is to be transmitted to the Com-

mission on Elections by the Speaker of the House of Representatives, and when such a call is made, then the Commission on Elections may order or shall order the holding of the special election in the legislative district in, let us say, Catanduanes, to be held simultaneously with the local elections therein on June 18, 1988.

Sec. 3. The Commission on Elections shall send copies of the resolution, in number sufficient for due distribution and publication, to the Provincial or City Treasurer of each province or city concerned, who in turn shall publish it in their respective localities by posting at least three copies thereof in as many conspicuous places in each of their election precincts, and a copy in each of the polling places and public markets, and in the municipal buildings.

And finally :

Sec. 4. This Act shall take effect upon its approval.

We believe Mr. President, that the mechanism for filling a vacancy as provided here, except insofar as the amendment I have personally proposed, would be timely. While we may have some views to the contrary as to whether a special election should be held to fill the vacancy in the Senate, we do not want however, to impose upon the House. That is, should the House decide to call a special election then the mechanism therefor has been set.

And for this reason Mr. President, I respectfully urge my Colleagues in this Body to approve House Bill No. 2696.

Senator Maceda. Mr. President.

The President. Senator Maceda.

Senator Maceda. Mr. President, will the distinguished Gentleman yield to clarificatory questions?

Senator Gonzales. Gladly to the Gentleman from Manila, Laguna, Ilocos Sur, and from so many places in the Philippines, because during

our campaign as a team, he had always said in so many places that he is the adopted son of the said province or municipality especially during the time when he was the Head of the Presidential Arm on Community Development.

Senator Maceda. Thank you, Mr. President. I accept the statement. I have been adopted by many provinces and municipalities; however, I have not had the honor of being adopted by millions of parents just like another Member of this Senate.

Senator Gonzales. Especially society matrons, Mr. President.

Senator Maceda. Yes, Mr. President.
[Laughter]

May I refer initially to Section 1, the portion that says "as soon as it is notified of the existing vacancy by resolution of the Senate or House of Representatives through the Senate President or Speaker," now, this notification speaks of the existing vacancy. Is it the contemplation of the Sponsor that this is something that is, in effect, ministerial or mandatory? Or is this a provision that gives full discretion to the House or to the Senate, in effect, to decide whether it feels that those vacancies should be filled or not?

Senator Gonzales. Insofar as the decision to call or not to call a special election, that depends exclusively on the decision of either House. But once a call is made, then it becomes the ministerial duty of the Commission on Elections to call a special election.

Senator Maceda. Is it the intention of this bill at the moment — and that is why we have given it special priority this morning in spite of the pendency of the Committee Report on the Tariff Bill and other pending committee reports — that we are rushing this bill to enable the filling up of the two vacancies in the House and the one vacancy in the Senate?

Senator Gonzales. Mr. President, the purpose

is to prescribe by law the mechanism for filling such a vacancy whether both Houses or either one of them will call a special election will, as I repeat, depend upon the determination of said Houses.

Senator Maceda. Does the Gentleman have any information as to how much it would cost to call a special election for the vacancy in the Senate?

Senator Gonzales. I am not aware, Mr. President, of the expenses to be incurred therein should we decide to hold that special election simultaneously with the local elections. Undoubtedly, it will cost much less if the same is held simultaneously with the local elections than holding it separately. This is a House Bill, and I would assume that during the consideration of this Bill that matter may have been duly considered.

Senator Maceda. As far as the distinguished Sponsor is concerned, may we be informed if he has a stance on the matter of whether to call a special election for the Senate or not?

Senator Gonzales. There was a bill filed by Senator Tamano calling for a special election to fill the vacancy caused by the appointment as Secretary of Foreign Affairs of our former Colleague, Senator Raul Manglapus. But I do recall that the Senate leadership had called a caucus for this purpose, and an informal vote on the matter was taken and without naming names, I recall that most of the Senators called did not see it necessary to call a special election for that purpose.

Senator Maceda. Mr. President, I wanted these things to be clarified so that whatever is the intention of the Sponsor, as well as of the Chamber, it will not immediately raise expectations on the part of some people who might suddenly start campaigning all over the country, thinking that the Senate vacancy will be filled.

I think, from the very beginning, especially should the media report the passage of this bill, in fairness to everybody, while it is clear that the intention here is to fill up the two vacancies in the House of Representatives, it is not clear as to whether there will be a filling up of the vacancy in the Senate.

Senator Gonzales. Mr. President, I can not speak for the House of Representatives as to what their intention is. I sponsor this bill not because of any direct or personal interest on my part. This bill happened to be something that pertains to elections. And in the course of things, it was referred to the Committee on Electoral Reforms and People's Participation and therefore, it becomes my task now to sponsor this bill.

As I have stated, more than anything else, the only purpose of this bill is to set the mechanism for the filling of vacancies. But while I may have certain views, as far as calling a special election to fill the vacancy in the Senate is concerned, I have none for the House of Representatives. I leave it to our Colleagues in that Body. Certainly I will not close the door if the other House should decide, in their collective wisdom, to fill the vacancies existing therein in order that the constituents of the districts affected may not be deprived of their representation in Congress.

Senator Maceda. Going to a practical matter, Mr. President. As soon as the Commission on Elections is notified by a resolution of either House, would the calling of the special elections be subject to the availability of funds by the Executive Department? Supposing we pass a resolution calling a special election for the Senate, and supposing that it is already after January 18 — and it will be a separate election for the Senate and it will cost P50 million, will the calling of special election then be subject to the Executive Department for the release of

the fund to enable the Commission on Elections to hold that election?

Senator Gonzales. I would assume Mr. President, that when either House makes the decision to call a special election, then they should also provide for the means of making that election possible. So whether the funds necessary will be appropriated or not, I feel that that would now depend upon the action of the Congress. As I have said, this bill merely proposes the mechanism. How to carry out that decision will have to be decided by the Congress.

Senator Maceda. Mr. President, I just like to put on record that I have no objection to filling up the vacancy in the Senate. Only that to fill it up in conjunction with the January 18 elections, I think there is not enough time, whether from the viewpoint of preparations or from the viewpoint of the people who would aspire for it as far as January 18 is concerned. If the decision is to fill up the vacancy here, even if it should be expensive because that is part of the price we have to pay for representation of the Filipino people, I do not mind calling for a special election for the Senate even after January 18, separately, but we should not rush the filling of a seat on January 18. Because what would happen is that, as we are seeing it now, in the matter of candidates for governor and city mayor where in many places there is not a bumper crop, so to speak, of candidates. If we call elections for the Senate for January 18, certainly, only those who ran and lost probably in the last elections would have a motivation and a good chance to win.

I am not against the filling up of a vacancy here, but let us hold it in such a way that the best candidates will have the time to prepare for it and file their certificates of candidacy, campaign, and talk about their issues instead of rushing it to include it in the January 18 elections.

Thank you very much, Mr. President.

Senator Gonzales. By way of reaction to that Mr. President, I wish to reiterate for the record that I have sponsored this bill for and in behalf of the Committee on Electoral Reforms and People's Participation regardless of whatever decision that either House may take on whether to fill or not to fill the existing vacancies. Our interest merely is to implement the constitutional provision in cases of vacancy by providing for the mechanisms in filling the same.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Mr. President, will the distinguished Gentleman yield to a few questions?

Senator Gonzales. Very gladly, Mr. President.

Senator Guingona. The vacancy referred to in the proposed bill, may we know what it covers?

Senator Gonzales. The bill obviously contemplates of permanent vacancy, and that is why it calls for a special election to fill it.

Senator Guingona. When the framers of the Constitution foresaw and allowed special elections in cases of vacancy, they envisioned a law to cover the special elections, did they not?

Senator Gonzales. Mr. President, the Constitutional Commission through the final version of the Constitution that they have adopted envisioned that the manner of filling that vacancy be left to the determination of Congress by the enactment of the appropriate legislation.

Senator Guingona. Does the distinguished Sponsor feel that filling up by resolution suffices for implementation the constitutional provision?

Senator Gonzales. If ever a resolution is passed by either House calling for a special

election to fill the vacancy, it is not by reason of that resolution alone, but it is because of the law that the Congress has previously enacted implementing Section 9 of Article VI of the Constitution.

Senator Guingona. Yes. In the case of death, there is no question that a vacancy occurs. In the case of resignation, there is no question that a vacancy occurs, a permanent vacancy, but when the Congressman or a Senator becomes insane, is there a vacancy?

Senator Gonzales. Mr. President, that will have to be left to the determination of either House, because if that causes a permanent vacancy, I am afraid that many special elections may be called. But as I have said, the determination of whether the vacancy is such as to require the holding of a special election to fill it ultimately will now depend upon either House. Because it is the Senate or the House of Representatives, as the case may be, that would approve the resolution declaring the existence of that vacancy.

Senator Guingona. Yes, Mr. President. According to medical experts, there are varying degrees of insanity. As a matter of fact, there are 60 degrees. And if there are 60 degrees of insanity, some of these are temporary insanities and some of these are semi-permanent and some are permanent.

Would it not be dangerous to leave the judgment of sanity or insanity to one Chamber alone, when the Constitution in formulating this provision perhaps wanted to leave the judgment of permanent vacancy to both Houses?

Senator Gonzales. In the view of some, many Senators and Congressmen are acting now just because they are in a period of the so-called lucid intervals. [*Laughter*]

But the point is, I think, that each House will act with utmost responsibility.

Seriously speaking this time, Mr. President, I think the Members of each House must be assumed that they are conscious of their oaths of office and responsibility to the people, in approving a resolution calling for a special election to fill a vacancy that it declares or that it acknowledges to exist in each Body.

Senator Guingona. We understand that Mr. President, but in formulating a legislation, I think it is wise to look at all possibilities, and if there are lucid intervals, the possibility for abuse or misuse. I am just posing that because I thought that it would be best left to the judgment of both Houses when a vacancy occurs and not just by mere resolution of one Chamber.

Senator Gonzales. I think Mr. President, while we really should adopt a system that as much as possible minimizes the possibility of abuse, yet even the best laws are capable of being abused. But in this particular case, there is a built-in safeguard. The built-in safeguard being in the character of this Body. When we enact or pass a resolution of this nature, we are actually acting against our own interest. And there, we are adopting a precedent. And we will not adopt a precedent that is arbitrary or unjust for fear that in the future we may become victims of the same arbitrary procedure that we have started. And so that is built-in, the nature of the character of each House.

Senator Guingona. I just want to be clarified on the one year that the distinguished Gentleman stated. Does it refer to the Members of the House of Representatives?

Senator Gonzales. Yes, Mr. President. Because I feel that the occurrence of vacancy in the Senate, at least 18 months before the next regular election, is already sufficient. But as a vacancy in the House is concerned, I feel strongly that it should occur at least one year before the next regular election to enable the one to be elected in that special election to serve his con-

stituents for such a substantive period that would justify the expenditures to be incurred in the holding of a special election.

Senator Guingona. The term of the congressman is three years.

Senator Gonzales. Three years.

Senator Guingona. So that if there is a vacancy, whether by death or permanent insanity any time before the one year period prior to a regular election, the House of Representatives can pass a resolution?

Senator Gonzales. That is correct, Mr. President.

Senator Guingona. And is this a mandatory thing?

Senator Gonzales. That is not mandatory. In fact, the House may decide not to adopt a resolution.

Senator Guingona. No. I mean is the calling of the special election mandatory?

Senator Gonzales. Once a resolution is passed already by the the Senate or of the House of Representatives notifying the Senate of the existence of such a vacancy, then it becomes the ministerial or mandatory duty of the Commission on Elections to call a special election which shall not be less than 30 days nor more than 60 days after such call.

The President. The Chair would like to ask the question, on the basis of the language of Section 1, the resolution of the Senate or the House of Representatives, as the case may be, will pertain only to the notification of the existing vacancy. It does not say it is for the Senate or for the House to call. Actually, as it is worded here, it is the Commission on Elections which shall call a special election.

Senator Gonzales. Yes.

The President. Probably, we need to modify this.

Senator Gonzales. Yes. The intention is there, Mr. President. I think that is the intention but I agree with the observation made by the President that there is no room for improvement of this provision so that the legislative intention can be made more explicit.

The President. So that even if there is an existing vacancy on the basis of the explanation of Senator Gonzales, if the Senate does not pass a resolution calling for a special election, the Commission on Elections should not on its own initiative call a special election.

Senator Gonzales. Under this provision, as the resolution is passed, then it becomes the duty of the Commission on Elections to call a special election because it says: The Commission on Elections as soon as it is notified of the existence of the vacancy by resolution, et cetera, shall call a special election to fill such vacancy. So I think what the Chair is trying to point out is that the resolution to be approved by either House should not only notify or certify to the Commission the existence of a vacancy but should also include therein a call for a special election to fill that vacancy.

Senator Guingona. Mr. President, would it not be better, with the permission of the distinguished Sponsor, to have a joint resolution to fill such vacancy rather than to leave it to the independent Chamber to decide because this may also entail appropriations; it may entail other circumstances; and it is in the spirit of, I think, what the Constitution had in mind? To expedite things, let us have a resolution. But would the distinguished Sponsor not agree to make it a joint resolution instead of leaving it to the independent resolutions of the two Houses?

Senator Gonzales. If the Gentleman pleases, my personal view on this matter is that although the Senate and the House of Representatives are parts of the same Congress, they have,

however, certain interests of which each House ought to be the sole judge and therefore, one House ought not to be given a veto power over an action that ought to be determined exclusively by that House. An internal matter of each House should be left to the determination of that House alone because otherwise, we do not also want the House interfering in matters that affect the internal organization of the Senate. And that much respect we ought to give also to the House.

Senator Guingona. We agree Mr. President, that such a respect should be accorded, and I think that in the nature of things, if the vacancy comes from the House of Representatives and they initiate a resolution, we would naturally concur barring any other fundamental reason why we should not; or things being equal, we would accord it all the respect *vis-a-vis* if the vacancy occurs here in the Senate, I do not think that they would also block it. But for purposes of implementing a constitutional mandate, and because there may be appropriations involved, there may be other issues involved, perhaps it would be best to consider the possibility of a joint resolution instead of a single resolution.

Senator Gonzales. I respect the view of the Gentleman, but may I reiterate my personal perception that this is a matter that is internal within each House and I think the best course of action for us to do is really to have mutuality of respect for each other's action as far as matters exclusively within the internal organization or internal affairs of each body are concerned.

Senator Guingona. Mr. President, a joint resolution does not need the approval of the President. It is a simple manifestation by both Chambers, and supported by this bill, it can already be implemented by the Commission on Elections.

Senator Gonzales. May I reiterate for the record that I have sought the studies of the legal

staff of the Senate on this particular matter, and the opinion is quite unanimous and I see that it has been backed up by authorities and precedents here and abroad to the effect that a joint resolution has the force and effect of law, and therefore, is to be passed not only by Congress but approved by the President, more so if in the thinking of the distinguished Senator there will be appropriations. So that is the difficulty. We of course assume that both Houses will always act reasonably on the matter, but the trouble is that we open also the possibility by which one House can operate as a veto or to wield a veto over an action of the other House. And I think in the interest of good relationship between both Chambers that should be avoided.

Senator Guingona. We do not want to belabor the point. We just want to be enlightened on whether there is a difference between the joint and the concurrent resolution.

Senator Gonzales. With the studies of our Legal Staff, backed up by precedents and authorities, there is a difference between the two.

Senator Guingona. Which does not need the approval of the President?

Senator Gonzales. An ordinary resolution, for example, a simple resolution of each House or probably whether we call it a concurring resolution or otherwise, but if it expresses merely the sense of the Congress, certainly that would not require the signature of the President. But when it intends to lay down a rule of action or a rule of conduct, then it assumes legislation, and as such, requires the approval of the President.

Senator Guingona. If this bill authorizes a joint resolution which is mandatory on the part of the COMELEC, would that suffice the thinking of the distinguished Sponsor?

Senator Gonzales. If the declaration of the vacancy and calling of a special election is to be

contained in that resolution, then it will partake of the nature of a general law, and it will have the force and effect of law and will require the approval of the President.

Senator Guingona. Thank you, Mr. President.

The President. Senator Lina and afterwards Senator Romulo.

Senator Lina. Thank you, Mr. President. Will the distinguished Gentleman from San Juan yield to a few clarificatory questions?

Senator Gonzales. Shall we say, San Juan and Mandaluyong? I would rather not try to slice out something that is claimed by Senator Estrada as his exclusive domain, and so probably Mandaluyong and incidentally San Juan — with the permission of Senator Estrada.

Senator Lina. Mr. President, I would like to get a categorical answer to this question. Whether the resolution that will be passed by either House or by both Houses, in case a joint resolution is agreed upon, will not only state that there is a vacancy but that a special election is being called.

Senator Gonzales. Yes, that was the point raised by the Chair to which I personally subscribe. In fact, before we enter the period of amendments, I would ask for a brief suspension so that I would be able to hammer out the language of the amendment as to include: First, that the resolution should not only declare the existence of a vacancy, but also, second, it should call a special election for that purpose. So that it would not appear that the calling of a special election is the prerogative of the Commission on Elections. We would rather impose upon it the duty of holding a special election pursuant to a resolution passed by either House.

Senator Lina. Therefore, Mr. President, the calling of a special election will depend on the decision of either the House or by the Senate

— if we leave it to the discretion of the Congressmen or the Senators to call a special election, is that not correct?

Senator Gonzales. That is right, Mr. President. And if I can also add, the power to call a special election is a legislative power. That is why the resolution, if I would get their views on this matter, should really be contained in the resolution and should not really be left to the Commission on Elections.

Senator Lina. Mr. President, as far as the Senate is concerned it is easy to accept the view that whether to call a special election or not will be left to the Members of the Senate. But if there is a vacancy in the House of Representatives, this Representation feels that it should not be discretionary on the part of Congress to fill up such vacancy; it should be mandatory. As soon as a vacancy occurs that vacancy must be filled up because a representative has a definite constituency, Mr. President. There is a principle that taxation without representation is "highway robbery." That, if a certain district does not have a representative in the House, then the people in that district will not have a voice in the legislative process. Whereas, if the vacancy is in the Senate, and since the Senators represent the entire population, then no area can really say that they have no voice in the legislative process.

But in the House of Representatives, Mr. President, I see a certain difficulty. If we leave out, let us say, five, six or seven districts because Congress would not want to call a special election, then I think the people in those districts will be discriminated against, and I think that is not what is contemplated in the Constitution, Mr. President.

Senator Gonzales. May I hear the Gentleman's comment on that observation, Mr. President.

Senator Lina. My point is that as far as the

House of Representatives is concerned, once a vacancy occurs and given certain conditions, like if a vacancy occurs one year before the end of the term et cetera, et cetera — given those parameters, my position is that the calling of special election for the House of Representatives should be mandatory and not discretionary on the part of Congress.

Senator Gonzales. May I point, Mr. President, that the 1935 Constitution, the 1973 Constitution in its original form, as well as with the amendments, have provided for the filling of vacancies in Congress, as well as in the Batasang Pambansa, by means of special election within 30 days, and yet historically we will find out that there have been many instances wherein vacancies had occurred and yet neither Congress nor either House thereof or the Batasang Pambansa had called a special election.

All right. And so I repeat that to impose upon Congress the mandatory duty of calling a special election may have some problems because I feel that this a matter that should be left to the determination of either House and there may be a consideration other than ours which either House may fill that it is justified in not calling a special election and, therefore, we do not want to unnecessarily dictate nor impose upon that discretion in the future.

As I have said, my hope is that I think everyone of us in the Senate and the House and its Members will have to act in our own best judgment as to what will be in the best interest of our people. And I would rather leave it at that make than make impositions upon either House. More so if we are not imposing the same obligation upon ourselves.

Senator Lina. Mr. President, we are establishing here a national policy in filling up of vacancies in Congress. Although I respect the members of the House of Representatives, but as far as the formulation of a policy on filling up of

vacancies is concerned, I think all of us should participate, not only those serving this term but also in future legislative bodies regardless of whether we are members right now or we are members in the future.

I strongly believe Mr. President, that if we leave it to the discretion of either House or both Houses to call a special election to fill up a vacancy in the House of Representatives, then we will create a situation whereby certain districts will not be represented in Congress. And understandably so, if the members of Congress are not so keen in filling up a vacancy it is understandable because they are not representing that particular district and it is up to the people who have lost a representative either due to the death of their congressman or for some other reasons to fend for themselves. But if we have a law that mandates it or it is mandatory on the part of Congress to call a special election if a vacancy occurs in the House of Representatives then we will be able to eliminate that scenario that members of Congress will just drag their feet and allow time to pass until the next election comes, thus leaving a large segment of the population without representation in Congress. That is the scenario or situation, Mr. President, that I am afraid will occur if we just leave it to the discretion of the Members of Congress to fill up a vacancy in the House of Representatives.

Of course, I have a different view as far as a vacancy in the Senate is concerned, because a Senator represents the entire country and, therefore, no region or district will be left unattended to.

Senator Gonzales. Yes. There is a sound basis for the opinion of the Gentleman from Manila and Laguna.

The Bill actually originated from the House of Representatives and had been approved by it. They have found that probably, they should be

given discretion upon that matter, and I think it is not entirely arbitrary that there is also a basis for that view. While we are not necessarily bound by any version of the House, ordinarily we should accord them the necessary courtesy and respect in the same manner that we also expect them to accord the same courtesy and respect for our actions here in the Senate.

So I repeat that: if it were so, then there would even be no need for a resolution to be passed by either House. Probably, the Senate President or the Speaker of the House of Representatives just notifies the Commission on Elections as to the existence of the vacancy, and then it becomes now the duty of the Commission on Elections to call a special election, if the intention of the distinguished Gentleman is to be pursued to its logical conclusion.

But I repeat that, unfortunately, there should be some discretion that should be left to either House on this particular matter.

And also, the calling of a special vacancy is a legislative power and which should not be just left to the Commission on Elections independently of a call by the Congress or either House thereof.

At any rate, I do respect the opinion of the Gentleman, but I have already set on the record the reasons for this particular provision, and probably, in due time, we may submit that to the collective wisdom of this Body.

Senator Lina. Thank you very much, Mr. President, and perhaps, in the period of amendments, I can introduce some suggestions.

Senator Gonzales. Please do so.

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

Senator Romulo. If the Gentleman from Mandaluyong and San Juan and Rizal and the Philippines would yield, Mr. President.

Senator Gonzales. I hope he does not include the world. Gladly, Mr. President. I hope he is not one of the bulls mentioned by Senator Saguisag. *[Laughter]*

Senator Romulo. Mr. President, since a lot of the questions I was proposing to ask had been asked, may I just confine myself to clarifying certain points, Mr. President.

Senator Gonzales. Please do so.

Senator Romulo. First of all, whether it pertains to the House or to the Senate, this bill, in a sense, would set a policy. Since it would set a policy, it is important to clarify, at least in our own minds, what this policy is and how we are dealing with it.

Now before I go to that, Mr. President, I would just like to ask the distinguished Gentleman about the timetable. If the election would be held on January 18, as it would be, and under Section 2, irrespective of the first sentence, it says that if said general election is scheduled to be held, the special election shall be held simultaneously with such general election and whether it is for the Senate or for the House, this bill would hold the election on January 18. At this point Mr. President, it is now December 4.

Since it is now December 4, may I ask the distinguished Gentleman what is the timetable until this bill is approved by the Senate. And then there is a conference committee; and of course, the President has to sign it. There has to be a resolution to be passed by either House; and after that the Comelec, as a result of that election, is mandated to call for a special election.

So, may I ask the distinguished Gentleman if he has before him more or less the timetable up to the time when the COMELEC calls the special election.

Senator Gonzales. I have none because I am sponsoring this bill regardless of whether either House or both of them would call any special

election. May I repeat, that my intention in sponsoring this bill is merely to provide for the mechanism in the filling of such a vacancy. Whether or not either House will act pursuant to this authority depends upon it. And it is during the passage of such a resolution that the matters that the Gentleman had asked me, this Representation, would come. Whether there would be sufficient time for that purpose, whether or not it is wise or unwise to call a special election, then that would be the proper time.

But as far as this bill is concerned, the only limited and specific purpose is to provide for the mechanism or the manner of filling a special vacancy as provided in the Constitution. Whether or not the Senate or the House will call a special election pursuant to it, is an entirely different matter, Mr. President.

Senator Romulo. Mr. President, I am well aware of that. In fact, this is not the first time that the distinguished Gentleman will make that statement in answer to the question. But my concern is that if we pass this bill, then we will have to go to the subsequent steps. My concern is the time within which we give an opportunity to those who would be candidates to campaign, and for the people to select them properly.

I am mentioning this because when we were discussing the Local Election Bill for January 18, there had been statements here shortening the period of campaign. The objection to a short period of campaign is to give the candidates an opportunity to present themselves properly to the people even in local elections and of course, for the people to properly evaluate the merits of the candidates. What I am saying is, if with the approval the resolution is pushed through, I suppose that we would have to approve this not later than December 18, but then, the subsequent step in the case of the local elections, although that is not the issue here, I understand that it will be taken up in the resolution

that January 18 may be too short. I do not know, Mr. President. That is why I will be guided by the timetable.

At any rate, I am just expressing this view. The Gentleman has already expressed his views, so I just want on record my concern for the timetable in order, precisely not only to give the candidates, either in the Senate and even in the House, the opportunity to present themselves, but of course, for the people to choose the right candidates.

As Senator Maceda had said in the case of the Senate, we would not want the candidates for the House, although we give a lot of latitude and discretion to the House of Representatives, to be limited only to those who, perhaps, had lost in the last election. We would like to give as much opportunity to many candidates to be able to present themselves and for the people to judge them. This is just my concern. I think the Gentleman has already answered this question several times, but I would only like to express it.

Senator Gonzales. May I react to that?

Senator Romulo. Yes.

Senator Gonzales. Mr. President, I do not have any timetable but I would agree with the Gentleman that even if this were enacted today and signed by the President into a law, still, it would be too tight to call a special election whether by the House of Representatives or by the Senate. Because it is not correct to say that there will still have to be a resolution passed by the said House. And even after that resolution is passed, then, they should see to it that the COMELEC is given ample time so that the elections can be held at least 30 days or at least before January 18. It will really be very, very tight. So I would rather discuss it from the viewpoint of the very purpose of this law. I am not leaving it to either House now whether it would be opportune or appropriate to call a spe-

cial election because there are many factors that would enter into the determination of whether a special election should be held.

Senator Romulo. Mr. President, the reason why I am stating this is simply because this bill ties it in with the general elections on January 18. If there were no such "Provided, however" in Section 2, then, I would have no hesitation in giving my assent to this although there is also a consideration proposed here that since the representatives pertain to the House, perhaps, we should give some latitude to their own discretion. But at any rate, that is the reason why I raised that question.

The second point Mr. President, is on the question of appropriation. I have always believed that when it comes to election, when it comes to representation by the people in a free, orderly and honest election, that is where the issue on appropriation comes in. And therefore, I just would like to express the view in relation to the discussions presented here that once it is decided that there is a need to fill a vacancy, that there is a need for a special election just as there is need to go on with the general elections, whether it is national or local, that the appropriations must always be there. And not only that. It should be given top priority.

Thank you Mr. President.

Senator Gonzales. That is correct, Mr. President, and I believe that when either House passes this resolution, it will also provide the means in order to effectuate what is intended to be done in that resolution.

Senator Saguisag. Mr. President.

The President. Senator Saguisag.

Senator Saguisag. Will the distinguished Gentleman from San Juan and Mandaluyong yield to a few questions?

Senator Gonzales. It is an honor to be asked

by the distinguished critic or consultant, as the case may be.

Senator Saguisag. Thank you.

There is a cut-off period in Section 1 which we have identified — 18 months as to the Senate and one year as to the other House. It may happen that a vacancy may occur during a long recess which may be critical as this. I wonder if, during the period of amendments, the Gentleman may be open to adopting the language in the Omnibus Election Code which is something like this: "The Batasang Pambansa, through a duly approved Resolution or an official communication of the Speaker" — or in this case, the Senate President — "when it is not in session, shall certify to the Commission the existence of said vacancy."

Senator Gonzales. I think that would improve the bill because then, it will provide for a contingency which may not be within the power of either House to act and yet it becomes necessary during the time when it is in recess.

Senator Saguisag. Now the Gentleman from Manila, Senator Lina, made mention earlier that this will be applicable to future legislative bodies. This is critical because it is possible that, who knows, maybe in the next few years, we may again revert to a unicameral assembly. Will this kind of law apply to that body?

Senator Gonzales. Until the law is changed, then it will have to apply Mr. President, and I feel that if and when there is a new legislative body, then the appropriate changes as demanded by such change will also be made by it.

Senator Saguisag. I ask that because under Section 22 of the Omnibus Election Code, there is precisely already that kind of legislation which made mention only of the Batasang Pambansa. My own position here is that any time an old law, let us say, a Commonwealth Act, refers to a national assembly, that should apply to any legislative body. So the question here is: Is this

law really necessary since there is Section 22 of the Omnibus Election Code, and which, for the Record, may I read:

Special election for Members of the Batasang Pambansa. In case a vacancy arises in the Batasang Pambansa eighteen months or more before a regular election, the Commission shall call a special election to be held within sixty days after the vacancy occurs to elect the Member to serve the unexpired term.

I have written to the Commission on this and here I share the Gentleman's view on another point, in that the Commission on Elections always finds an excuse not to do something that maybe, with some resourcefulness and with some imagination, it may be able to do. So if the position of the Gentleman is that what we will pass here now will apply to future legislative bodies, may be in some other form, can not a similar argument be made that, indeed, under existing laws, in the same manner that we are still bound by Commonwealth Acts, by Republic Acts, that antedated this Congress, what I have quoted may still have force and effect today?

Senator Gonzales. Technically, the provisions of the Omnibus Election Code are still applicable and probably, it is precisely why this bill was presented with the House, feeling that there ought to be a change of that existing law. Because the Batasang Pambansa was a unicameral legislature while the Congress now is a bicameral one. Indeed, if we examine some provisions of the Omnibus Election Code, we find out that they were legislated in the light of the nature of that Body.

Let us take for example, how many copies of the certificates of candidacy should a candidate file? In the Omnibus Election Code, we fix it at four times the number of precincts in a political division. Because we were thinking then of assembly districts or provinces at most. But what happened when we have a Senate? All of

us were required to file more than 200,000 copies of the election returns, simply because the law that was intended to apply to a unicameral legislature is still in place. But now, with the changed nature of the legislature, it seems to be arbitrary and unreasonable.

And another one, when we pass the Omnibus Election Code, we fix the maximum amount that a candidate can spend for his campaign to a realistic amount which we thought was one peso and fifty centavos (₱1.50) for every registered voter because we were thinking of assembly districts or at the most, provinces and cities. What happened when we already have a change? Now, we have a Senate. Legally, a candidate for the Senate could spend ₱37,500,000 which by our standards is extremely high and unjustifiable. And yet, that is legal because that is what the law provides. Probably, these thoughts have prompted the bigger House to pass this law. More so, it is specifically provided in the Constitution under Section 9, Article VI, that in case of vacancy in the Senate or in the House of Representatives, a special election may be called to fill such vacancy in the manner prescribed by law, and Constitutional provisions, as a general rule which are prospective in operation. Therefore, this provision contemplates an implementing legislation and, precisely, that is the purpose sought to be achieved by House Bill No. 2696.

Senator Saguisag. In other words, Mr. President, if we mean to have this apply to other legislative bodies in other forms, it is really best that we will introduce some language to that effect in the period of amendments.

Senator Gonzales. Yes, Mr. President. On the other hand, I do not want also to bind the hands of the future legislative bodies because we would not know what would be the nature of the future legislative bodies. It may be unicameral, it may be bicameral, or the Senators may be elec-

ted by districts at large. There may be three bodies or even four levels in the legislature. We would not know. I do not want to enact a legislation that would be binding upon future legislatures, Mr. President.

Senator Saguisag. But the view of some of us here, Mr. President, is that the denial of representation due to some technicalities should not really be left to the decision of somebody. I was hoping that there could be a language here that we are really very concerned that vacancies, especially in relation to the other House, must always be acted upon immediately.

In any case, I will try to do that during the period of amendments, Mr. President.

Senator Gonzales. Please do that. Mr. President, we will have our definite views when the amendment is proposed.

Senator Saguisag. Now, if I may go to another point, Mr. President. Does the Gentleman see any distinction between vacancies created, let us say, by death or permanent incapacity, and a vacancy created by the voluntary choice of one who accepts another office, one who resigns, or should we treat all the situations as the same?

Senator Gonzales. No, Mr. President. I think the contemplation here is a permanent vacancy. So, regardless of the causes, it is imperative that the vacancy should be permanent. The Constitution contemplates a special election and the one to be elected will serve the unexpired portion of the term.

Therefore, it is very clear that the contemplation is a permanent vacancy.

Senator Saguisag. The context of my question, Mr. President, has to do with the situation created by the conscious decision made by Senator Manglapus and Congressman Santos to accept other positions. I was wondering whether we might want to have a policy of discouraging

such actions in the future. I am not sure. I can see the logic that if one dies, like in the case of Congressman Tapia, that was something where no one had a choice. Clearly, that is something that we should try to remedy immediately.

But what is our response to the criticism? Are we really all that free, just to leave our positions which we have just earned and then leave our constituency unrepresented?

Senator Gonzales. Mr. President, that is actually both a burden not only to the Members of Congress concerned, but also to the Executive. Because, it is the Executive that actually makes the appointment and while technically, we are free to accept or not to accept that appointment, when it comes from the President sometimes one treats it as a command.

But that is only a situation contemplated by the Constitution where it says that no Senator or Member of the House of Representatives may hold any other office or employment in the Government without forfeiting his seat. So, in the view of the Constitution, the holding of another office or employment in the Government is incompatible with his membership in the Congress. That is why the forfeiture of his seat in the Congress is the consequence of the holding of the same. So, probably within the purview of the Constitution, it is not really prohibited. But then, while it is not prohibited for a member of Congress, be he a Senator or a Congressman to accept any office or employment in the government, what the Constitution does is to declare such a position incompatible. Therefore, acceptance or holding of the second will *ipso facto*, vacate the first.

Senator Saguisag. The final point I would like to raise has to do with the bill we have just passed on Second Reading. This concern was expressed by Senator Enrile and myself, this situation meant to be covered by the Anti-Dynasty Law. In other words, if someone has won a seat

in the Congress, then he dies or becomes permanently incapacitated, in that situation, should someone within the prohibited degrees be allowed to run to replace the one who leaves the position vacant? I have just examined our bill and it is not covered. I was wondering whether the Gentleman might be willing to consider an amendment on this point during the proper period. This might be an exemption, especially in case of death or permanent incapacity but not in the case of resignation or forfeiture by operation of law.

Senator Gonzales. With respect to the first question, I have to beg off because I have not really seen the final version of the Anti-Dynasty Bill. In fact, I think the distinguished Author has been asked by the Chair to prepare the version of the bill after undergoing the period of amendments so that we can vote on it. I mean, as approved on Second Reading, I have not really seen it. But I would welcome any amendment that would be reasonable, that would improve and that would strengthen this bill.

Senator Saguisag. Thank you very much.

Senator Aquino. Mr. President.

At this juncture, the Senate President, Honorable Jovito R. Salonga, relinquished the Chair to the President Pro Tempore, Honorable Teofisto Guingona, Jr.

The President Pro Tempore. Senator Aquino is recognized.

Senator Aquino. Will the distinguished Gentleman from Mandaluyong yield to a few questions?

Senator Gonzales. Yes, to the favorite brother-in-law of the President.

Senator Aquino. Mr. President, could it be possible that the intent of this bill be limited to the House of Representatives only, because with due respect to the House of Representatives, I think there will not be too much controversy

if we limit the bill to the House of Representatives only. It is when we include Members of the Senate that all the complications arise. Because the Members of the House of Representatives are elected by districts while the Senators are elected nationwide. Costwise, if we are to decide between an election that will cost less than ₱1 million, it is much easier to decide than an election that will cost around ₱50 million.

Senator Gonzales. That is why, Mr. President, I have resisted the suggestions here, that the calling of the special election should be a joint action by the Senate and the House of Representatives. That is why we are leaving it to the exclusive determination of either House because I am really afraid that there might be certain considerations which might prevent one House from doing one act which it feels is to the best interest of that body.

Senator Aquino. That is correct, Mr. President. That is why, in the period of amendments, may I know the Gentleman's thinking regarding this matter, if it is limited to the House of Representatives only?

Senator Gonzales. At this point, I would not be very comfortable with that proposed amendment because the Constitution mandates Congress to provide by law for a situation where there exists a vacancy, not only in the House of Representatives but also in the Senate. Also, it is very difficult to have a different rule for the Senate and for the House of Representatives. More so, the rule that we are going to adopt in the Senate, may, in the view and perception of those outside of it, be more favorable and liberal than what we are going to adopt in the House.

Senator Aquino. But there is a difference in our representation, Mr. President, because in the House of Representatives, one represents a specific district while our constituency is the entire country. As we can see now, while we lack one Senator, we are still functioning as efficiently as if we were complete.

Senator Gonzales. I mean, the existence of vacancy and the necessity of filling the same by special election is a matter to be decided by each House, separately.

Senator Aquino. That is correct, Mr. President. That is precisely the reason why I am suggesting that maybe we should consider tackling these issues one at a time. The House will probably have its own rules and regulations and the Senate will have different rules and regulations.

Senator Gonzales. What this bill seeks to do is merely to provide for the mechanism of calling a special election.

Now, how are we going to implement it, shall we approve a resolution? What procedure are we going to adopt? What factors should we consider in the enactment of our resolution that rests with each Body? We may adopt a different rule for the Senate; we may adopt a different approach as far as the House of Representatives is concerned.

The idea of the distinguished Senator is not really foreclosed nor is it obstructed by the provisions of Section 1 of this particular bill.

Senator Aquino. Thank you, Mr. President.

The President Pro Tempore. Are there any other interpellations? [*Silence*] There are none.

The Chair recognizes the Majority Floor Leader.

Senator Mercado. Mr. President, I move that we close the period of interpellations.

The President Pro Tempore. Are there any objections? [*Silence*] The Chair hears none; the period of interpellations is closed.

**MOTION OF SENATOR MERCADO
(Suspension of Consideration of House Bill
No. 2696)**

Senator Mercado. Mr. President, I move that

we suspend consideration of House Bill No. 2696.

The President Pro Tempore. Are there any objections? [*Silence*] Hearing none, the same is approved.

Senator Mercado. Mr. President, I would like to remind the Body that we are going to adjourn but we are going to convene for our session at 10:00 a.m., Monday, and thereafter we shall be meeting morning and afternoon to tackle the Tariff Bill and the Budget, as well.

So, Mr. President, I move that we adjourn the session until ten o'clock, Monday.

The President Pro Tempore. Just a minute. Senator Romulo is recognized.

ROMULO INQUIRY

Senator Romulo. Mr. President, may this Representation just inquire from the Majority Floor Leader about the next timetable for the Budget, if he has it already?

Senator Mercado. Actually, what we will first discuss should be the Tariff Bill. That has been reported.

Senator Romulo. That would be on Monday, morning and afternoon, Mr. President?

Senator Mercado. We have a schedule for morning and afternoon but I had just been informed today that the Sponsor, Senator Tamano, will be in the afternoon session. But we can finish our business as regards this bill on Monday morning and in the afternoon the sponsorship speech; and then, we can have the period of interpellations.

Now we are still awaiting the Budget to be reported out and this is forthcoming, I think within the week it shall be with us.

Senator Romulo. But would it not be on Monday or Tuesday, Mr. President?

Senator Mercado. The Budget will not be on



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Finally, Mr. President, all offices pertinent thereto must establish an effective, cooperative and coordinated program in line with the information campaign we have asked initially to make the nation aware of this national disgrace that has plagued us for the past few years in Japan.

Thank you, Mr. President.

Senator Mercado. Mr. President.

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

BILL ON SECOND READING
HOUSE BILL NO. 2696 – Vacancy in Congress
(Continuation)

Senator Mercado. Mr. President, I move that we consider Committee Report No. 67 on House Bill No. 2696 submitted by the Committee on Electoral Reforms and People's Participation entitled, "An Act Prescribing the Manner of Filling a Vacancy in the Congress of the Philippines."

We are now in the period of *turno en contra*, debate for and against.

The Presiding Officer [Senator Maceda]. Is there anybody who would like to speak against the bill? [Silence]

SUSPENSION OF THE SESSION

Senator Mercado. Mr. President, I move for a suspension of the session.

The Presiding Officer [Senator Maceda]. Is there any objection? [Silence] There being none, the session is suspended for a few minutes.

It was 10:55 a.m.

RESUMPTION OF THE SESSION

At 11:01 a.m., the session was resumed.

The Presiding Officer [Senator Maceda].
The session is resumed.

2432

The Majority Floor Leader is recognized.

Senator Mercado. Mr. President, before we call on Senator Gonzales, Senator Guingona has a manifestation to make.

Senator Guingona. Mr. President, more than three days ago we furnished all the Members of the Senate copies of Report No. 4 of the Blue Ribbon Committee. We are now submitting the same for approval by the Body, Mr. President.

The Presiding Officer [Senator Maceda]. Is there any objection to the approval of the Blue Ribbon Committee Report No. 4? [Silence] There being none, the same is approved.

Senator Guingona. Thank you, Mr. President.

Senator Mercado. Mr. President, as mentioned, we are in the period of *turno en contra* as regards House Bill No. 2696. And if there are no speakers for and against, I move that we go to the period of amendments.

The Presiding Officer [Senator Maceda]. There being no speakers against and other speakers for, we are now in the period of amendments.

Senator Guingona. Mr. President.

The Presiding Officer [Senator Maceda].
Senator Guingona is recognized.

Senator Guingona. Mr. President, before we go to the period of amendments, may we just ask one or two clarificatory questions of Senator Gonzales.

Senator Mercado. May we suspend the session for a few minutes, Mr. President?

SUSPENSION OF THE SESSION

The Presiding Officer [Senator Maceda].
Yes, the session is suspended.

It was 11:02 a.m.

RESUMPTION OF THE SESSION

At 11:03 a.m., the session was resumed.

The Presiding Officer [Senator Maceda].
The session is resumed.

The Gentleman from Agusan is recognized.

Senator Guingona. Mr. President, will the distinguished Gentleman from Mandaluyong yield to a few questions?

Senator Gonzales. Yes, Mr. President.

Senator Guingona. Under the proposed bill, what happens if the vacancy is the sectoral representative in the House of Representatives or one member of the party list, Mr. President?

Senator Gonzales. This bill does not contemplate the vacancy caused by the death, resignation or cessation of any sectoral representative because this specifically provides for a special election, and we know that under the Constitution, the sectoral representatives are not elective but they are appointive Members of the House.

Senator Guingona. But the Constitution, Mr. President, says that sectoral representatives should be selected or elected by their respective . . .

Senator Gonzales. Yes. If that is so, Mr. President, then it should be in a separate bill, either in an amendment to the Executive Order regarding the appointment of the sectoral representatives or in an independent legislation. Because obviously, there is a proper classification since they belong to different categories of Members of the House of Representatives.

Senator Guingona. Therefore, if that were so, would it require concurrence of the Senate?

Senator Gonzales. We would not know, Mr. President, at this point, what is the exact provision, if that is already provided for in the Executive Order governing the appointment of the special representatives, or if there be none,

what would be the shape of the amendment thereto or of the independent legislation governing the same.

Senator Guingona. Would the distinguished Sponsor accept an amendment to exclude sectoral representatives?

Senator Gonzales. Mr. President, this Bill does not really include the sectoral representatives and therefore, there may be no need for any such amendment. Or probably, an exclusionary phrase will do it, Mr. President.

Senator Guingona. Thank you, Mr. President.

Senator Saguisag. Mr. President.

The Presiding Officer [Senator Maceda]. If there are no other interpellations. . . the Senator from Pasig, Mauban, and Pangasinan is recognized.

Senator Saguisag. Thank you, Mr. President.

Will the Gentleman from Mandaluyong and San Juan yield to just one question?

Senator Gonzales. Gladly, Mr. President.

Senator Saguisag. So far, the four sectoral representatives in the other House have all been appointed. There may come a time however, when they may be elected. Under Section 5, Subsection 2 of Article VI of the Constitution, it is precisely provided that such representatives shall be chosen by selection or election from labor, et cetera.

Senator Gonzales. That is right, Mr. President. As far as the party list of candidates is concerned, we have not yet provided by law for the details as to how the party list members are to be elected. And therefore, it is quite premature for us to include them in this bill because we do not know how this constitutional provision is to be implemented.

I understand, Mr. President, that there are various proposals on this particular point, but there is nothing concrete as yet. And probably

it will be hazardous for us to make a provision until we know really how they are going to be chosen.

Senator Saguisag. That is all, Mr. President. Thank you.

The Presiding Officer. [Senator Maceda]. Any other interpellations? Senator Lina.

Senator Lina. Thank you, Mr. President. Just a follow up on the questions that were already propounded to the Honorable Senator from San Juan, Mandaluyong and Metro Manila, if the Senator will yield.

Senator Gonzales. Gladly, Mr. President.

Senator Lina. Mr. President, last time I asked whether it would be discretionary on the part of the Senate or the House of Representatives to call a special election or to ask the COMELEC to call a special election. I would like to hear the Gentleman's comment on this observation that if we leave the matter to the full discretion of either House to notify the COMELEC and to call for a special election, a situation may arise whereby the political parties in either House to notify the COMELEC and to call for a special election, a situation may arise whereby the political parties in either House will base their decision, to call a special election or not, on the relative strength of their potential candidates in the districts so affected, or even if it is in the Senate, on the national scene.

There is great danger indeed, that if we allow the decision to be given or the decision to be handed down by either House not making it mandatory to call a special election, we will definitely see a scenario whereby there will be no special election for some districts in the country because of this political inconvenience or political convenience being experienced by some parties. Can I hear the Senator's comment on that?

Senator Gonzales. Yes, Mr. President. But if

that is so, requirement of concurrence by the Senate, as apparently intended by the distinguished Senator, will not cure it. Because for any concurrent action or joint action to be taken, both Houses must approve it. And if one House does not want to call a special election, the other House, even if it wants to and approves a concurrent or joint resolution for that purpose, cannot call for a special election.

Senator Lina. That is not my point, Mr. President. The notification can be made separately by each House or even a call can be made separately by the House or by the Senate. What I am trying to focus on, Mr. President is: If we leave it solely to the discretion of either House—in other words, not making it mandatory to call a special election — there is a possibility that some districts where there are vacancies will not be represented in the House of Representatives because of certain political considerations. And the example that I will use is that if in a certain district here in Manila, there are two contending political parties, and in that district, it is well known that one party does not have the capability to win as far as the congressional election is concerned, and it so happened in the House that the majority party is the one that does not have a strong candidate in that particular district, then the possibility is that the House will not call a special election for that particular district. This possibility, Mr. President, is not remote. And therefore I am thinking, Mr. President, that we make it mandatory to make it as a matter of national policy that if a vacancy arises within a certain given period, before and after a regular election, that a special election be called on a mandatory basis and not just discretionary on the part of the House of Representatives.

Senator Gonzales. I admit, Mr. President, that that is a distinct possibility, but there may be other considerations why the House or the Senate may not want to call a special election.

Probably, the condition of law and order in that district would not warrant the holding of a clean, honest or orderly election. Then, in the case of the Senate, the necessary funding in order to finance a nationwide election may also enter into the picture. What I am trying to say, Mr. President, is that while the situation that the Gentleman has mentioned may occur, there may also be other factors and other considerations that would enter into the picture, and therefore, we do not want to tie unnecessarily the hands of both Houses. I feel that the law should give them the appropriate flexibility in order to deal with that problem, trusting that they are going to act in accordance with what they consider to be the larger interest of the country.

Senator Lina. I believe, Mr. President, factors like peace and order situation or certain administrative difficulties in proceeding with an election. In other words, it is the Commission on Elections that will determine whether an election can be held in a particular district or not. Let us say, there is a breakdown in peace and order and there are other problems, then it is within the competence of the COMELEC to determine whether an election should be held or not, because the COMELEC is the proper body to determine that. Mr. President, outside of those factors that can be looked into by the agency that is handling the election, I think it should be a matter of national policy that, if a vacancy arises either in the Senate or in the House of Representatives, a special election must be called.

Senator Gonzales. Mr. President, then we are faced with a situation where it becomes the mandatory duty of each House to call a special election and yet, in effect, the special election that it is mandated to call cannot be held because the COMELEC decides on the conditions of law and order obtaining therein. Should we not avoid a situation that instead of having that collision course between a House of Con-

gress performing a mandated duty and a decision of the COMELEC on the other hand, pursuant to existing law authorizing it to, let us say, not postpone an election?

Senator Lina. In case of the regular election, the COMELEC is empowered under the law to postpone an election. For example, in Maguindanao, Sulu, Cotabato City and other parts of Mindanao, in the forthcoming local elections, Mr. President, the COMELEC is considering to postpone or reset the elections in those places because of the conditions obtaining which will not warrant the holding of a local election. Just the same, if it is a special election for Congressional seats in five districts, the COMELEC is also empowered to postpone or to reset the date for a special election in some districts. What I am only hammering out, Mr. President, is a national policy that if a vacancy arises, then either House can call a special election, subject to certain qualifications as already incorporated in Section 1 as to the time of the holding of a special election.

Senator Gonzales. Regarding the first point, Mr. President, there is a distinction between a regular election which is actually, set by law at a specific day; and a special election that is called by either House. There is a big distinction on that particular matter. But I think it would be more judicious on our part to actually conform and continue with the long tradition obtaining in Congress whether under the 1935 Constitution or in the Batasang Pambansa, under the 1973 Constitution as amended, that it is within the discretion or it is for each House to determine whether or not there should be a special election to fill a vacancy that exists in either House.

Senator Lina. The last point, Mr. President, is that I am worried that the "barkadahan" mentality will prevail, that the stronger "barkada" will dictate or will influence the decision of either

House to call a special election or not in a particular district, or to call a nationwide election in case of a vacancy in the Senate. Although it is a tradition as the Gentleman already mentioned, Mr. President, I feel we should get out of the "barkadahan" mentality, and I think that will be the result if we limit to the discretion of either House to call a special election. If we can get away from it and make it mandatory to call a special election, I think that will be a better procedure to follow.

Senator Gonzales. In every deliberative body, what we call a "barkadahan" system cannot really be completely abolished and ignored. But let us consider the situation obtaining in this Body.

There has been a bill filed by Senator Tamano calling for a special election to fill the vacancy created by the appointment of our erstwhile Colleague, Senator Manglapus, as the Secretary of Foreign Affairs. The leadership submitted this issue to the Members of this Body in a caucus and my Colleague is perfectly aware of what was the sentiment of most or at least a majority of the Members of this Body. And yet, that is the situation. We are the best judge to determine whether or not the situation is one where we should call or not a special election. That is what this bill seeks to really promote. This is an internal matter to be decided by each House and therefore, let that House determine the issue.

Senator Lina. Mr. President, in the first place, I was not present during that caucus. And secondly, I have already explained during the first time that I rose here to interpellate my Colleague, that there is a difference between a vacancy in the Senate and a vacancy in the House. The vacancy in the Senate is a vacancy that affects the national constituency, whereby if there is a vacancy in the House, it is only a particular district. And if the particular district

does not have a representative in the House, then we are violating the principle of taxation or we are falling into the trap of taxation without representation which some people call "highway robbery."

So the problem is more pronounced as far as the vacancy in the House of Representatives is concerned.

I would like to make that clarification, Mr. President.

Senator Gonzales. But then the Gentleman will understand how difficult it is for any Sponsor of this bill to suggest one Rule for the Senate and another Rule for the House of Representatives especially if it is perceived that we are adopting quite a Rule that is more liberal for the Senate and on the other hand, stricter for the other House.

Senator Lina. That is why my ultimate suggestion is to make it mandatory on both Houses to call a special election.

Senator Gonzales. But then, we will go back to square one again in that the Senate may, in its judgment, feel that it is not necessary to call a special election.

In order that we can really get out of this mess which is dictated by certain specific considerations which may be peculiar to one House, let us throw this matter to the discretion of said Bodies.

Senator Lina. I will take up the matter again during the period of amendments, Mr. President, and try to strike out a compromise.

Thank you very much.

Senator Gonzales. Thank you, Mr. President.

Senator Guingona. Mr. President.

The Presiding Officer [Senator Maceda]. Senator Guingona is recognized.

Senator Guingona. I just want some clarificatory questions, Mr. President.

I seem to recall that this resolution would be applicable if there were no funding or appropriations that would be required. Is that correct, Mr. President?

Senator Gonzales. What I did say when the same question was propounded to me last week was that when each House decides to call a special election, then it will provide the means in order to carry out that special election. It probably may include the provision for appropriations or where to get the funding for that purpose. We do not know. I just do not want to tie my hands on that particular matter now. But that is very explicit that there should be funds in order that the special elections can be carried out.

Senator Guingona. In the concrete case of the coming elections, Mr. President, a resolution can be filed to fill up the two vacancies. Would there still be a need of funding for these two vacancies in Catanduanes and Davao?

Senator Gonzales. Mr. President, I cannot give any categorical answer but I understand from the statement of the COMELEC Chairman that even where a special election were to be held simultaneously with a regular election, there will be some additional expenses involved. How much? I do not know. Whether the COMELEC can also fund the same out of its existing appropriations is something of which I have no personal knowledge. But one thing is sure — there are certain savings of the poll body and that is why we did not push through anymore the resolution regarding the solution of the problem of the 80,000 additional ballot boxes that would have to be procured for purposes of the local elections because all the ballot boxes are involved in the election protest. Now I learned to my surprise that there has been a savings of some ₱53 million on the part of the Commission on Elections and that is why they were able to secure a realignment of that savings and they used ₱40 million of the same for the purpose of

procuring or buying the 40,000 new ballot boxes.

So probably, to the Gentleman's question as to whether or not there will be additional appropriations, my answer is yes. As to how much additional expense would be needed, I am sorry, I am not in a position to give the answer, Mr. President.

Senator Guingona. Yes, and this bill is premised on the proposition that if there is no additional appropriation needed, funds coming from savings, as the Gentleman cited, then it would apply; but if there were additional appropriations, necessarily, the concurrence of the Senate will have to apply.

Senator Gonzales. That is correct, Mr. President, and probably, each House trusts that when it makes a decision on that matter, it will get the cooperation of the other House.

Senator Guingona. Yes. Now I am concerned with this 30-day period and Congress' House of Representatives are national officers, are they not?

Senator Gonzales. They are, Mr. President.

Senator Guingona. And therefore, ordinarily, we would afford — the presidential election is 90 days — the national officers, senators and congressmen, 45 days, to enable the candidate to present himself and make himself known to the voters of that district, not within 30 days but within 45 days, at least.

Senator Gonzales. Yes, Mr. President.

Senator Guingona. So would the distinguished Gentleman agree to an amendment to give the potential candidates in an election sufficient time of 45 days instead of 30 days, Mr. President?

Senator Gonzales. Mr. President, personally, I would not be averse to that but we could see that this is a House bill and they could have some reasons why a special election shall not

be earlier than 30 days nor later than 90 days from the date of the resolution of the House, and even if we approve it at 45 days as the minimum, then certainly, I think that would be one of the varying provisions which will be the subject of a conference committee. And then we will be able to hear what is the purpose of the House in providing that a special election shall be held not earlier than 30 days.

Senator Guingona. My only concern, Mr. President, is the availability of the time for a potential candidate to make himself known during the 45 days.

Senator Gonzales. That is correct, Mr. President. In fact, we have uniformly provided for a 45-day period, if he recalls, in what is now Republic Act No. 6636. Unfortunately, there is now a uniform 30-day period. They can argue that if 30 days would be sufficient for the election of governors and city mayors, and some of the provinces and cities are multi-districts, then why is it not all right to have also a 30-day campaign period for a special election involving a single district? So they can always argue that way.

It is so easy for me to accept that amendment of FORTY FIVE DAYS and personally, I am inclined to it; but I am just merely expressing the probable views on this matter because it happens that this is a House bill. It is not a Senate bill.

Senator Guingona. Yes. Thank you, Mr. President.

The Presiding Officer [Senator Maceda]. The Chair would like to point out that the 30-day period in the bill does not refer to the period of campaign but it refers to the date of the special election.

Senator Gonzales. Yes, Mr. President.

The Presiding Officer [Senator Maceda]. All right.

Senator Gonzales. The special election shall be held not earlier than 30 days. That is correct, Mr. President.

Senator Guingona. Yes, Mr. President. But precisely, my point is we should afford a candidate ample time to campaign in a special election. He is going to seek a national office; and, therefore, national as well as local issues may be involved. And this may entail not just 30 days because if the notice is 30 days, necessarily, the campaign period may have to be even that much only.

The Presiding Officer [Senator Maceda]. Then, the Gentleman can present it as an amendment during the period of amendments, subject to the Sponsor's discretion.

Senator Guingona. Yes, Mr. President.

Senator Gonzales. Yes, Mr. President, I am going to accept that amendment, why not? But the Gentleman has been a Member of the Conference Committees of the Senate and he has already had his experiences on this particular matter.

The Presiding Officer [Senator Maceda]. All right.

PERIOD OF AMENDMENTS

The Presiding Officer [Senator Maceda]. There are no other interpellations; we can now go into the period of amendments.

Senator Romulo. Mr. President.

The Presiding Officer [Senator Maceda]. The Senator from Quezon City and Camiling, Tarlac is recognized.

Senator Romulo. Mr. President, if the distinguished Gentleman would listen to a proposed amendment on minor points; in fact, I think he was the one who proposed one of them.

Senator Gonzales. Yes, Mr. President.

ROMULO AMENDMENT

Senator Romulo. Under Section 1, line 3, "at least TWELVE (12) months before the next regular election" in lieu of "at least nine (9) months."

Senator Gonzales. So it would call for the deletion on line 3 of the words "nine (9) months" in words and in figure, and then substitute it with ONE (1) YEAR.

The amendment is accepted, Mr. President.

The Presiding Officer [Senator Maceda]. Is there any objection? [*Silence*] The Chair hears none; the same is approved.

Senator Romulo. On line 4 to 7, in lieu of "as soon as it is notified of the existing vacancy by resolution of the Senate or House of Representatives through the Senate President or Speaker, as the case may be," we would like to propose the following: UPON RECEIPT OF RESOLUTION OF THE EXISTENCE OF SAID VACANCY AND THE NEED TO CALL A SPECIAL ELECTION, of the Senate or House of Representatives through the Senate President or Speaker, as the case may be and they continue "shall call".

Senator Gonzales. Now, Mr. President, the suggestion of the Chair is that the resolution should contain two things: First, a certification of the existence of a vacancy. Second, a call for a special election to fill such a vacancy. Because the calling of a special election is a legislative power and we do not want to delegate that to the Commission on Elections.

Senator Romulo. That is on the proposed amendment, although we could even make it clearer.

Senator Gonzales. Yes.

Senator Romulo. Because it says there UPON RECEIPT OF THE RESOLUTION ON THE EXISTENCE OF SAID VACANCY.

Perhaps we can put ON CERTIFICATION OF THE EXISTENCE OF SAID VACANCY.

Senator Gonzales. It is the latter part, the need for calling. There is something to that effect.

Senator Romulo. AND THE NEED TO CALL.

Senator Gonzales. I think it should be that the resolution itself should call a special election.

Senator Romulo. UPON RECEIPT OF RESOLUTION ON THE EXISTENCE OF SAID VACANCY AND TO CALL A SPECIAL ELECTION.

Senator Gonzales. All right. Then on line 7, instead of "shall call", SHALL HOLD.

Senator Romulo. SHALL HOLD. Yes, subject to style.

Senator Gonzales. Subject to refinement and style, Mr. President, we are accepting the amendment.

The Presiding Officer [Senator Maceda]. Is there any objection? [*Silence*] There being none, the same is approved.

Senator Enrile. Mr. President.

The Presiding Officer [Senator Maceda]. The Minority Floor Leader.

Senator Enrile. I would like to inquire whether we have a quorum. We are approving amendments to a law but there are very few of us in the Chamber.

The Presiding Officer [Senator Maceda]. The question of a quorum has been raised.

SUSPENSION OF THE SESSION

Senator Gonzales. May we call for a suspension of the session, Mr. President?

The Presiding Officer [Senator Maceda]. Is there any objection? [*Silence*] There being

none, the same is approved. The session is suspended.

It was 11:37 a.m.

RESUMPTION OF THE SESSION

At 11:59 a.m., the session was resumed.

The Presiding Officer [Senator Maceda].
The session is resumed.

The question of quorum has been withdrawn. The Gentleman from Mandaluyong and San Juan is on the floor.

We are still in the period of amendments.

Senator Guingona. Mr. President, if there are no anterior amendments on page 2 . . .

The Presiding Officer [Senator Maceda].
Anterior amendment, the Gentleman from Pasig.

Senator Saguisag. Thank you, Mr. President.

I am working on the basis of the original draft before the proposed amendment of Senator Romulo. I was hoping we could incorporate the idea I tried to introduce last time. There are time constraints and some vacancies may occur during the recess and I wonder if we can incorporate the language of Section 22, subject to style, of the Omnibus Election Code. In case the House concerned is not in session, instead of a formal resolution, an official communication from the Speaker or the Senate President may do. That was why in line 7 — I am still using as I say the original language — my proposal would have read something like this after the phrase or fragment, “as the case may be, comma” and then I would have introduced the following amendment: OR AN OFFICIAL COMMUNICATION FROM THE SENATE PRESIDENT OR SPEAKER AS THE CASE MAY BE WHEN THE HOUSE CONCERNED IS NOT IN SESSION.

Senator Gonzales. Probably, what can be done, Mr. President, is to add that as an additional sentence on line 1 after “vacancy period.” IN CASE EITHER HOUSE IS NOT IN SESSION AN OFFICIAL COMMUNICATION TO THIS EFFECT BY THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AS THE CASE MAY BE SHALL BE SUFFICIENT.

The Presiding Officer [Senator Maceda].
The Minority Floor Leader.

Senator Enrile. Mr. President, may I pose a parliamentary inquiry from the distinguished Gentleman who is proposing this amendment? May I know what he has in mind? As I sense it, there is only one instance where Congress may be in recess for 30 days or more and that is, in between regular sessions; so that I think there is no urgency for the contemplated proposal because the vacancy is not of such an urgent situation as to delegate the power to the presiding officer of the Chamber instead of the Body performing its function in calling the election.

Senator Saguisag. In the first place, there seems to be at least two applicable occasions within the coming months — the Christmas break, and then the June break. We will never know whether there will be contingencies that will require long recesses. To me, it does not seem to be, in fact, a power delegated. I think it is an obligation because we are always concerned with lack of representation.

So it is not something that is subject to the whims of the head concerned if a certain district is not represented. For instance, it may happen that because of the very short period of an unexpired term, let us say, 12 months, if someone dies or leaves office for some reasons on the 13th month and there is the intervening period of one month by force of circumstances, there is no body that will just simply notify the COMELEC that there is a certain place that needs represent-

ation. So I believe that that should be the perspective. It is not a power but an obligation to see to it that every district is represented. I am not even talking of the Senate. I share the concern of Senator Lina here that in regard to the House, it is really always a special case of some people being taxed without being represented.

Senator Enrile. But would that not be an appropriate instance where the power of the President to call Congress to a special session be invoked, if there is really an urgency or necessity for convening Congress to pass a resolution calling for a special election to fill a vacancy in either Chamber of the Congress?

Senator Saguisag. That might be an expensive exercise if we are all agreed on the principle, on the philosophy that it is really tyrannical to tax some people without their voice being heard in the other House.

So I would hope that the better and more practical approach would just be, in fact, to direct even the official concerned to go through the motion. . .

Senator Enrile. But when we call a special election, Mr. President, we do not only pass a resolution. We have to provide the money to cover the cost of the election. And I do not think that even if the Speaker of the House or President of the Senate were authorized under this law to notify the Commission on Elections regarding the presence of a vacancy, we cannot escape the fact that Congress will still have to meet in order to pass a special budget to cover the cost of that election.

Senator Saguisag. There are those of us who really believe that this has the highest priority. If there are a thousand items the government should spend for, electing a representative, in our view, should take precedence over everything else.

Senator Enrile. I agree with that, Mr. President. I agree with the proposition of the Gentle-

man. The only difference between his position and mine is the methodology. So as I said, urgent as it may appear, Congress still cannot escape the fact that it has to meet to provide the money to COMELEC to cover the cost of a special election, because no money can be disbursed out of the general fund without an appropriation by law, either included in the general law, appropriations act, or special appropriations law.

Senator Romulo. Mr. President.

The Presiding Officer [Senator Maceda]. The Senator from Quezon City is recognized.

Senator Romulo. Point of information, Mr. President.

In view of the recurrence of the need for appropriation, perhaps what we can do is to provide in the budget appropriation for future special elections. And we are going to discuss the 1988 Budget soon, and there will be a conference committee on that Budget.

So in view of the fact that we all feel the necessity to have representation particularly in the Lower House, that is the humble suggestion of this Representation — that we provide for that in the 1988 Budget and in subsequent budget.

The Presiding Officer [Senator Maceda]. What is the pleasure of the Sponsor?

Senator Gonzales. I am disposed to accept the proposed amendment, with the understanding that the appropriation can be provided in advance or it may even come later. What is important is, in the view of the distinguished Sponsor of the amendment, there might be some time element involved. And in order that the action cannot be lost by default, then an official communication by the President of the Senate and the Speaker of the House of Representatives, as the case may be, would be sufficient for the purpose of calling a special election.

Senator Enrile. Anyway, Mr. President, I am just asking a question and I fully agree with my distinguished Colleague from Pasig and Mauban that we should put the highest priority in filling vacancies, especially in the Lower House. And I leave it to the Chair and to the Chamber and the Sponsor to dispose of the matter at hand.

Thank you.

The Presiding Officer [Senator Maceda]. So the Sponsor is formally accepting the amendment.

Senator Gonzales. The amendment which reads as follows: On line 1, page 2, after the word "vacancy" insert a new sentence which reads as follows: IF CONGRESS IS IN RECESS, AN OFFICIAL COMMUNICATION TO THIS EFFECT BY THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AS THE CASE MAYBE SHALL BE SUFFICIENT FOR SUCH PURPOSE.

Senator Saguisag. Thank you.

The Presiding Officer [Senator Maceda]. The Chair would like to ask: Is there a presumed consultation with Members of the House, or is it something that is going to be left strictly to the discretion of the Senate President or the Speaker of the House?

Senator Gonzales. We would like to think, Mr. President, that ordinarily, the functioning of both Houses, the Senate President or the Speaker, as the case may be, would not take a unilateral action but will do the same in consultation, at least with the leaders, as well as with probably, as many members of that Body as may be available during the recess.

Senator Saguisag. I would like to go on record that I share very strongly the sentiment just expressed by the Sponsor.

The Presiding Officer [Senator Maceda]. Is there any objection to the amendment? [Silence] There being none, the same is approved.

Senator Guingona. Mr. President.

Senator Romulo. Mr. President.

The Presiding Officer [Senator Maceda]. The Senator from Agusan; then, the Senator from Quezon City again.

GUINGONA AMENDMENT

Senator Guingona. Mr. President, on line 6, page 2, "earlier than 'FORTY-FIVE (45)' days . . ." instead of thirty (30) days.

Senator Gonzales. The amendment therefore, Mr. President, is the deletion of the word "thirty" and figure "30" following it and substitute it with the word FORTY-FIVE then enclose in parenthesis this figure 45. We accept the amendment, Mr. President.

The Presiding Officer [Senator Maceda]. Is there any objection? [Silence] There being none, the same is approved.

ROMULO AMENDMENT

Senator Romulo. On line 11, if the distinguished Sponsor would agree, instead of the period, add SUBJECT TO THE PROVISIONS OF SECTION 1 HEREOF.

Senator Gonzales. May we know the need for that additional phrase, Mr. President?

Senator Romulo. Well, the need for that additional phrase is for the COMELEC to receive a resolution calling for a special election with the certification that a vacancy exists.

Senator Gonzales. Would that not constitute a redundancy, Mr. President, because Section 2 begins with the following phrase: "Such a call by the Commission on Elections"?

Senator Romulo. Well, the Gentleman feels that it would be a redundancy because I have proposed that addition, because I am starting from "Provided, however." In other words, without "Provided, however," definitely there is clarity there. But since we are adding "Provided, however," that is the reason why I have proposed this phrase SUBJECT TO THE PROVISIONS OF SECTION 1 HEREOF.

I leave it again to the Sponsor.

Senator Gonzales. I mean this is only a matter of style, Mr. President, not really anything in substance, because not only is this already covered in the first phrase of Section 2, but that Section 2 should always be read together, not only with Section 1 but with the other provisions of . . .

Senator Enrile. Mr. President.

The Presiding Officer [Senator Maceda]. The Minority Floor Leader.

Senator Enrile. Mr. President, for a parliamentary inquiry. The proviso appearing on line 8 to line 11 on page 2 of this proposed measure speaks of a general election which, if it should occur coincidental to the periods mentioned, then the special election to fill the vacancy would be held during that general election. Now, the general election that we are facing is on January 18, 1988. And the next general election will be in 1992, and in between those periods, there will be no general election unless we change the election law or we call a snap election for any public office. So that, therefore, if it is contemplated, we mean by general election the election of 1992, then this provision would be superfluous.

Senator Gonzales. No, Mr. President. If this simply means that if within the period herein expressly provided, then there will be a general election, the special election will be held simultaneously with it. But it does not mean that no

special election can be held unless there be a general election. A special election can be held independently or even without any general election. The idea here is merely to save on expenses, meaning that if, at any rate, there will be during this period a general election, then the special election must be held simultaneously.

Senator Enrile. But precisely, Mr. President, we are legislating on a known legal situation in our country today. This Representation cannot conceivably imagine a scenario where we can have a general election between January 18, 1988 and May 11, 1992, if those were the dates of the general election. So that, what election are we talking about here? If we are talking about general elections after 1992 because this law, I suppose, will transcend in 1992, then every general election thereafter will mean that we are either electing Members of the House of Representatives or Members of the Senate.

Senator Gonzales. Mr. President, it simply means that after the general elections on January 18, 1988, then to fill any vacancy in either House, it must always be by special election. That is the meaning of this particular provision.

Senator Enrile. No, what I am saying is if, within said period a general election is scheduled to be held, the special election shall be held simultaneously. How can we have a general election between January 18, 1988 and 1992? We have already finished all the elections for the national officials and the local officials.

Senator Gonzales. This is within the period; meaning, as amended, 45 days and 90 days herein provided in Section 2. So the point, Mr. President, is that it merely provides for this contingency. If the contingency does not occur at all, then it simply means that a special election will be held alone.

The Presiding Officer [Senator Maceda]. The Chair would like to inquire from the Sen-

ator whether he considers the barangay elections a general election.

Senator Gonzales. Yes, Mr. President, if it is held throughout the country, because that is the definition of a general election.

The Presiding Officer [Senator Maceda]. Then would we have a general election in January 1988 for the barangay?

Senator Gonzales. There might be a general election.

Senator Enrile. Then, if that were the case, if we consider the barangay elections a general election, I would accept that.

That is precisely the reason why I raised the question because I cannot foresee any factual situation between January 18, 1988 and 1992, which would suggest to my mind that there would be a general election unless, of course, we consider the barangay election a general election. Because after 1992, we have an election for Members of the Congress every three years.

Senator Gonzales. Yes, Mr. President.

Senator Enrile. If the vacancy occurs, let us say, one year before the date of the general election for Members of Congress, then surely that will be a special election. There will be no general election; between the first year and up to the end of the second year, we will have a special election there. But if the vacancy occurs short of one year from the end of the three-year term of the Members of Congress, then we cannot have a special election.

Now, in the case of the Members of the Senate, then again, we will have to distinguish between those who will enjoy the tenure of six years and those who will enjoy the tenure of only three years depending upon the votes that they will garner in 1992. I raise this in order to understand what was contemplated by this proviso.

If we are covering in this proviso the barangay election that is forthcoming, then I will understand the presence of this proviso.

Senator Gonzales. The real contemplation of this provision, as I see it, because this must have been filed sometime in the early part of November, and it must have been also passed before December 1, is the general election that will be held on January 18, 1988. That was the contemplation or the situation. But the Chair has wisely pointed out that here is also a possibility that a barangay election may be held throughout the country, and that is a general election. And so, that is one of the situations.

Senator Enrile. I just want to make sure that these things are clarified. May I know from the Chair whether in a barangay election the election will be partisan? Meaning, will political parties be allowed to operate, and whether ballots will also be printed to be used in the barangay election in order to consider it, in fact, as a general election within the contemplation of our election laws?

The Presiding Officer [Senator Maceda]. Well, certainly, ballots and the usual COMELEC supervision is there. But with regard as to whether it is now considered partisan or not is not yet clear.

Senator Enrile. As far as I know, it has always been a practice in our country that barangay elections are done quite informally and on a non-partisan basis. They were never intended to be left to the people of the barangays without the participation of the institutions of the Republic governing and handling election matters.

Again, I just want to raise this inquiry in order that we can understand the import of this proviso.

Thank you, Mr. President.

Senator Aquino. Mr. President.

The Presiding Officer [Senator Maceda]. The Gentleman from Tarlac is recognized, Senator Aquino.

Senator Aquino. Mr. President, may the Gentleman clarify precisely what he was asking?

From my understanding, this applies probably, to elections later than 1992. For instance, if in 1995 there will be elections for Senators, there will only be 12 that will serve for six years. And assuming one of the Senators that is serving a six-year term previously happens to die, let us say, three months before the scheduled election, that is precisely the time they will take advantage of the elections in 1995 to elect a vacancy for that position.

Is this correct, Mr. President?

Senator Gonzales. Yes, Mr. President. For as long as this bill becomes a law and it has not been amended or changed thereafter, then it will be a law that will be applicable. I mean, not only after 1988, not only 1992, but for as long as it remains in our statute books.

Senator Aquino. So, I think we are very clear on that. There is just one item that I wanted to ask about: In this proviso, line 8: "Provided, however, that if within the said period a general election is scheduled", do we mean to say, Mr. President, within, let us say, the 90 days before a general election?

What I am trying to drive at is, suppose, one of the Members of Congress dies within a reasonable time before a special election or a general election is held, does it have to be strictly within the 90-day period? Because as it is worded here: "if within the said period."

What I am trying to drive at is "within a reasonable period," in effect. Because if, the accident or the Member of Congress who is going to be replaced happens to be gone, 60 days before this specified period of time, so, we can still have the election within the general

election, but that period is not within the 90-day period as provided here.

Senator Gonzales. The contemplation of this provision is that the special election shall not be earlier than 45 days nor later than 90 days from the date of such a resolution. So what would probably happen is the timing of the resolution to be approved by either House. So that, if they foresee that there is going to be a general election, they can time the approval of the resolution so that the special election will be held simultaneously with the general election. It is not after the death.

That is why we are saying that each House should always be given the necessary flexibility, and that is one of the matters that would be considered by each House in the approval of its resolution declaring a vacancy, certifying to the existence of the vacancy, and calling a special election.

Senator Aquino. So I hope that is clear, Mr. President. As a matter of fact, I wanted that on record so that the resolution of the Senate President or the Speaker of the House of Representatives takes into consideration, combining a special election when the timing is near a general election.

Senator Gonzales. Well, I think that will be taken into consideration by either House in the passage of the resolution contemplated here, Mr. President.

Senator Aquino. Thank you, Mr. President.

The Presiding Officer [Senator Maceda]. Are there any other amendments on page 2? [*Silence*] Are there no other amendments for the whole bill? [*Silence*]

The Majority Floor Leader.

Senator Mercado. Mr. President, I move that we close the period of amendments on House Bill No. 2696.

The Presiding Officer [Senator Maceda]. Is there any objection? [*Silence*]

Senator Mercado. Mr. President, I move that we vote on Second Reading, House Bill No. 2696, as amended.

The Presiding Officer [Senator Maceda]. Any objections to approving House Bill No. 2696, as amended, on Second Reading?

Senator Lina. Mr. President.

The Presiding Officer [Senator Maceda]. The Gentleman from Manila.

Senator Lina. Mr. President, we would like to have a clean copy first of the bill after the period of amendments. So many amendments have been introduced that I think it would be wiser and better if we have a clean copy of the bill.

The Presiding Officer [Senator Maceda]. The request is reasonable. Anyway, we have sessions this afternoon, and it is a very short bill.

Senator Saguisag. Mr. President.

The Presiding Officer [Senator Maceda]. The Senator from Pasig, Mauban, Pangasinan, and everywhere is recognized.

Senator Saguisag. Thank you. As long as we are going to have a clean copy, I wonder if I could just make some very minor suggestions on style so these can be incorporated in the new copy.

Senator Gonzales. Yes, Mr. President.

Senator Saguisag. Page 2, lines 1 and 2, instead of "Member of the House," maybe CONGRESSMAN may be more specific.

Senator Gonzales. I think this bill follows the language used by the Constitution, where the Members of the House of Representatives are not called "Congressmen" or "Representatives" but "Members of the House of Representatives." Because even as nomenclature is concerned, some call them "Representatives,"

some call them "Congressmen"; and so, what the Constitution provides is "Members of the House of Representatives."

Senator Saguisag. I will not insist on it. Now on line 7. . .

The Presiding Officer (Senator Maceda). Excuse me. To clarify, so after "the House," we will put the words OF ALL REPRESENTATIVES.

Senator Saguisag. Well to me there is just no parallelism. We are using "Senators." To me "Congressman" is really the more precise term for a member of the other House. But if there is a separate rationale for it, I will not insist. I am really against being too wordy, so I can live with this.

Senator Gonzales. All right.

SAGUISAG AMENDMENTS

Senator Saguisag. On line 7, after "resolution," should we not add OR COMMUNICATION?

Senator Gonzales. Accepted, Mr. President.

Senator Saguisag. Now the other thing is I am a little bit bothered by the fragment "among others," also on the same line. My understanding of "among others" is that it refers to people.

So may I suggest either INTER ALIA or among others[s] THINGS, whatever may suit the Sponsor better.

Senator Gonzales. "Inter alia" is too technical and legal a term. We would accept "among other[s] THINGS," Mr. President.

Senator Saguisag. And finally, line 20: Can we just adopt the *de cajon* formulation as to the effectivity regarding publication?

Senator Gonzales. Accepted, Mr. President.

Senator Saguisag. Thank you.

The Presiding Officer [Senator Maceda]. All right, all amendments of style are approved, if there is no objection. [*There was none.*]

The Secretariat is directed to distribute a clean copy before the session this afternoon.

SUSPENSION OF THE SESSION

Senator Mercado. Mr. President, I move that we suspend the session until four o'clock this afternoon.

The Presiding Officer [Senator Maceda]. The session is suspended until four o'clock this afternoon.

It was 12:30 p.m.

RESUMPTION OF THE SESSION

At 4:10 p.m., the session was resumed with the Honorable Jovito R. Salonga, President of the Senate, presiding.

The President. The session is resumed.

The Majority Floor Leader.

BILL ON SECOND READING

House Bill No. 2696 – Vacancy in the Congress of the Philippines

Senator Mercado. Mr. President, I move for the consideration of House Bill No. 2696. We have finished the period of amendments. We are ready to vote on it on Second Reading. Clean copies have been distributed to the Members of the Senate.

SUSPENSION OF THE SESSION

The President. There is a motion to approve House Bill No. 2696 as amended as of December 7, 1987, on Second Reading.

Maybe, it might be a good idea to have this read by the Members. I will suspend the session for a few minutes, if there is no objection. [*There was none.*]

It was 4:13 p.m.

RESUMPTION OF THE SESSION

At 4:19 p.m., the session was resumed.

The President. The session is resumed.

There is a pending motion to approve on Second Reading House Bill No. 2696, as amended.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

Senator Gonzales. We are working on certain amendments to the clean copy of House Bill No. 2696 and may we ask for suspension of the session for a few minutes?

SUSPENSION OF THE SESSION

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

It was 4:20 p.m.

RESUMPTION OF THE SESSION

At 4:33 p.m., the session was resumed.

The President. The session is resumed.

Senator Gonzales is recognized.

Senator Gonzales. Yes, Mr. President, on the clean copy of House Bill No. 2696, as distributed to the Members of this Body, we are asking for a reconsideration of an earlier motion approved this morning closing the period of amendments in order that we may propose some amendments to this clean copy.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Gonzales. So on page 1, Mr. President, line 6 between the words "of" and "resolution", insert the word "a", and after "resolution" and before "on" include the following phrase: OF THE SENATE OR THE HOUSE OF REPRESENTATIVES AS THE CASE MAY

BE CERTIFYING TO THE EXISTENCE OF SUCH VACANCY AND CALLING FOR A SPECIAL ELECTION. So that the entire Section 1 will now read as follows: "In case a vacancy arises in the Senate at least eighteen (18) months or in the House of Representatives at least ONE (1) YEAR before the next regular election for Members of Congress, the Commission on Elections, UPON RECEIPT OF A RESOLUTION OF THE SENATE OR THE HOUSE OF REPRESENTATIVES AS THE CASE MAY BE CERTIFYING TO THE EXISTENCE OF SUCH VACANCY AND CALLING FOR A SPECIAL ELECTION shall HOLD a special election to fill such vacancy."

The President. That will affect lines 7, 8, 9, 10 and 11 of the first page.

Senator Gonzales. Maintaining the bracketed phrases in the clean copy.

The President. All right. Is there any objection? [*Silence*] The Chair hears none; the same is approved.

Senator Gonzales. On page 2, line 8, we delete the phrase "such a call by", and then capitalize small letter "t", so that it will now read: "The Commission on Elections shall fix the date of the special election," et cetera.

The President. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Gonzales. That will be all, Mr. President.

The President. The Majority Floor Leader.

Senator Mercado. Mr. President, I move that we close the period of amendments on House Bill No. 2696.

The President. Is there any objection? [*Silence*] The Chair hears none; the same is approved.

Senator Mercado. Mr. President, I move for the approval of the bill on Second Reading, as amended.

APPROVAL ON SECOND READING OF HOUSE BILL NO. 2696

The President. The Senate will now vote on the bill on Second Reading. As many as are in favor of the bill, as amended, may please say *Aye*. [*Several Senators: Aye*] As many as are against may please say *Nay*. [*Silence*]

House Bill No. 2696, as amended, is approved on Second Reading.

BILL ON SECOND READING

House Bill No. 992 – Amendment to the Tariff and Customs Code

Senator Mercado. Mr. President, I move that we consider House Bill No. 992, as reported out under Committee Report No. 68 and submitted by the Committee on Ways and Means.

The President. Consideration of House Bill No. 992 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. House Bill No. 992, entitled:

AN ACT RESTRUCTURING THE IMPORT DUTY RATES AND CLASSIFICATION OF CERTAIN ARTICLES UNDER SECTION 104 OF THE TARIFF AND CUSTOMS CODE OF 1978 (PD 1464), AS AMENDED.

[*The following is the whole text of the proposed House Bill No. 992*].

HOUSE BILL NO. 992

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

SECTION 1. The rates of import duties and classification of certain articles under Section 104 of the Tariff and Customs Code of 1978, as amended, are hereby modified as follows:



REPUBLIC OF THE PHILIPPINES
CONGRESS OF THE PHILIPPINES
SENATE

Record of the Senate

RECORD OF THE PROCEEDINGS AND DEBATES
FIRST REGULAR SESSION

VOL. I

MANILA, PHILIPPINES

NO. 86

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Interpellations by Senator Enrile
(Consideration Suspended)

I close, Mr. President and distinguished Colleagues, with the hope that having reviewed the ASEAN strengths and weaknesses, we shall help build a more solid ASEAN community in the third decade ahead.

Thank you, Mr. President.

The President. The Majority Floor Leader.

BILL ON THIRD READING

House Bill No. 2696 – Filing A Vacancy in Congress

Senator Mercado. Mr. President, I move that we vote on Third Reading on House Bill No. 2696. Printed copies of the bill were distributed on December 10, 1987.

The President. Voting on Third Reading on House Bill No. 2696 is now in order. The Secretary will please read the title of the bill only, if there is no objection. [*There was none*]

The Secretary. House Bill No. 2696, entitled

AN ACT PRESCRIBING THE MANNER OF FILLING A VACANCY IN THE CONGRESS OF THE PHILIPPINES.

The President. The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

Yes – 16

Senator Alvarez	Senator Lina, Jr.
Senator Angara	Senator Maceda
Senator Aquino	Senator Mercado
Senator Enrile	Senator Pimentel, Jr.
Senator Gonzales	Senator Romulo
Senator Guingona	Senator Saguisag
Senator Herrera	Senator Salonga
Senator Laurel	Senator Tañada

No – 0

Abstention – 0

APPROVAL OF HOUSE BILL NO. 2696 ON THIRD READING

The President. With 16 affirmative votes, no negative vote, and no abstention, House Bill No. 2696 is approved on Third Reading.

BILL ON SECOND READING House Bill No. 2602 – General Appropriations Bill for 1988 *Continuation*

Senator Mercado. Mr. President, I move that we consider Committee Report No. 90 submitted by the Committee on Finance on House Bill No. 2602, entitled

AN ACT APPROPRIATING FUNDS FOR THE OPERATION OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES FROM JANUARY 1 TO DECEMBER 31, 1988 AND FOR OTHER PURPOSES.

We are in the period of sponsorship, Mr. President, by the Vice Chairman of the committee, Senator Romulo. I move that we recognize Senator Romulo.

The President. Senator Romulo is recognized.

SPONSORSHIP SPEECH OF SENATOR ROMULO

Senator Romulo. Mr. President, I join the Chairman of the Finance Committee, Senator Neptali Gonzales, and my co-Vice Chairman, Senator Ernesto Maceda, in endorsing for the consideration and approval of this Chamber, House Bill No. 2602, otherwise known as the General Appropriations Bill for 1988, approved by the House of Representatives and referred to our committee on November 24, 1987, together with the amendments proposed by the Senate Finance Committee under the Chairmanship of Senator Neptali Gonzales.

Mr. President, our national development goals are clear – alleviation of poverty, generation of more productive employment, promotion of equity and social justice, attainment of