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I, therefore, want to register a vehement and resounding *No* as far as Senate Bill No. 92 is concerned.

Thank you, Mr. President.

BILL ON SECOND READING

5, Nov 17 - (System of Initiative and Referendum) -
ifd - (Continuation)

Senator Mercado. Mr. President, I move for the consideration of Senate Bill No. 17, entitled:

AN ACT PROVIDING FOR A SYSTEM OF INITIATIVE AND REFERENDUM, AND THE EXCEPTIONS THEREFROM, WHEREBY PEOPLE IN LOCAL GOVERNMENT UNITS CAN DIRECTLY PROPOSE AND ENACT RESOLUTIONS AND ORDINANCES OR APPROVE OR REJECT ANY ORDINANCE OR RESOLUTION PASSED BY THE LOCAL LEGISLATIVE BODY

I request that we recognize Senator Gonzales.

SUSPENSION OF THE SESSION

The President. Why do we not suspend the session for a few minutes to give all Members an opportunity to read the bill again, if there is no objection? (*There was none.*)

It was 5:08 p.m.

RESUMPTION OF THE SESSION

At 5:24 p.m. the session was resumed.

The President. The session is resumed.

Senator Gonzales is recognized.

Senator Gonzales. We are still in the period of interpellations, Mr. President. I think, the Senator from Manila, Laguna and Ilocos Sur has manifested a desire to interpellate this Sponsor and, therefore, this Representation is available for that purpose.

The President. Senator Maceda is recognized.

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

Senator Gonzales. Gladly, to my distinguished Colleague.

Senator Maceda. Mr. President, I have no objection in principle to the bill. I would like to clarify certain matters so I can be guided to come to a complete understanding of the bill.

Mr. President, the bill clearly speaks of initiative and referendum — initiative or referendum; depending on how one likes it — for the local level. Is it not correct that the Constitution actually speaks of three levels: under Section 2 and Section 4 of Article XVII — constitutional amendment by initiative; under Section 1 of Article VI — legislative power through initiative and referendum; and then, as cited by the proposed bill, under Section 32 of Article VI — on the local level.

May I know from the Gentleman from Mandaluyong, whether he has studied personally in the Committee, other proposed bills that will implement the other provisions on constitutional amendment by initiative and amendment of the statutory acts through initiative and referendum?

Senator Gonzales. Insofar as the Committee on Electoral Reforms and People's Participation is concerned, other than Senate Bill No. 17, there has been no other proposed bill that seeks to implement the constitutional provisions regarding the system of initiative and referendum.

Senator Maceda. Yes. May I, therefore, know if there is a specific reason other than practicality why the distinguished Sponsor decided for the moment to limit himself to the matter of initiative and referendum on the local scale?

Senator Gonzales. I think, I have pointed out that the system of initiative and referendum is something new; it is novel, it is an innovation in our political system. And, therefore, while we believe in the reasons for their incorporation

in the Constitution, we should approach this cautiously. That is why we did make mention that we are starting on the local level. And depending upon the degree of our experience, probably, we may even attempt at a national level.

I think, I did point out in my constructive speech that even in a highly advanced country like the United States, the system of initiative and referendum has not been attempted on the national level. There was, in fact, a bill that was presented that would allow initiatives and referendum on the national level but it never reached first base; it was even defeated right in the very committee, Mr. President.

Senator Maceda. I understand the distinguished Gentleman's explanation. My only point, Mr. President — and of course, it is the prerogative of the Gentleman from Mandaluyong to present the bill in its present form — is since we are mandated to implement also related sections of the Constitution, I thought that he might have presented a bill which would be all-encompassing to cover a matter of constitutional amendment by initiative or legislative power through initiative and referendum. Of course, anybody, including this Representation, could have presented it.

In fact, I was thinking of presenting such a bill by substitution, but considering that the Gentleman from Pasig and Mauban objects to such a procedure, I have deferred taking that step for purposes of unity and reconciliation, so to speak.

Senator Gonzales. Is it because both of them voted *No* to Senate Bill No. 17?

Senator Maceda. Yes, in view of his statement today, where he does recognize the separate personality of the Senate, and he has called on the Executive Department to recognize our separate personality and independence. This is a historic day for me.

Senator Gonzales. Who has convinced who, Mr. President?

Senator Maceda. I did not convince him, Mr. President. Probably, he has been enlightened because of the projected departure of his friend, the Executive Secretary, from Malacañang. *(Laughter)*

Senator Gonzales. Well, at least, great minds, this time, run along the same channel.

Senator Maceda. Going back to the bill at hand, Mr. President, I think the Gentleman from Mandaluyong is aware, and it is so made in his proposed bill, that there are two types of law-making power that we are referring to here: (1) by initiative and (2) by referendum. Does not the Gentleman from Mandaluyong think that, for purposes of clarity, we should not mix them up in all the different provisions? As a matter of fact, probably, in the beginning of the bill, we should have a definition of terms as to what is "initiative" and as to what is "referendum."

Senator Gonzales. Mr. President, actually, they are really interrelated matters because initiative would also include, as a component thereof, referendum. Now, on the other hand, the local legislative body may also want to submit, either for approval or enactment or effectivity, an ordinance that it has enacted. It may want to be assured of popular support, and, therefore, it would now utilize referendum as a means. So, actually, the two are really intimately connected with each other. And it is no accident that they are embraced in the same provision which, in this particular case, is Section 32 of Article VI. The Constitution speaks of them as a system of initiative and referendum.

Senator Maceda. I agree with that, Mr. President. However, as I said, just for purposes of clarity and of style, since for a lot of people, this is the first time that they will come across this modification or this innovation. I think, as he was trying to say, the power of initiative,

of course, is the power to propose ordinances or amendments thereto; while the power of referendum is the power to approve ordinances or parts thereof which have already been acted upon by the local legislative body. As I will, probably, be able to point out in two or three sections down the line, there are certain sections that really apply to one but not the other. So, I was just wondering. As I said, I will not really belabor the matter at this point, but at the appropriate time. It might be better really to define these two terms separately and then act on them separately because they are two distinct acts.

Senator Gonzales. Insofar as the proposal of the Gentleman to have a section embracing definitions is concerned, I have no basic disagreement with that; I feel he can even improve the bill.

Senator Maceda. I thank the Gentleman from Mandaluyong. If we could go now to specific provisions under Section 1, it is my understanding, that the term "resolutions" has an entirely different meaning in law, especially when it refers, let us say, to resolutions of the legislative body such as ours. And, really, as far as local governments are concerned, the term that we are really concerned with is the term "ordinances." Would he be willing to delete, at the proper time, all references to "resolutions"?

Senator Gonzales. We include resolutions because one of the conferred powers upon the local legislative body is the enactment, not only of ordinances, but also of resolutions. In fact, even The Revised Administrative Code and the Local Government Code now speak both of resolutions and ordinances. Sometimes, the law would provide for resolutions authorizing the expenditure of public funds; it is a matter of form. The technical definition of ordinances and resolutions are not really followed by local legislative bodies. And that is why we cannot really omit resolutions much as we wish to fol-

low the technical distinctions between mere resolutions and ordinances.

Senator Maceda. Now, with regard to Section 2, this is just a very minor but important technical matter. There is a reference to barangays and barrios. The Gentleman from Mandaluyong is of course aware that, as far as the Constitution is concerned, the official terms used which was the subject of debate, as a matter of fact was "barangay." And, of course, barangay was not really created by Mr. Marcos but goes back to the *Cabeza de Barangays* in the olden times. So, at the proper time, would the Gentleman be willing to limit it to the term "barangays" since that is the official term now used in the Constitution?

Senator Gonzales. At this point, I would say that we will consider the proposed amendment in due time.

Senator Maceda. In Section 3, Mr. President, the Gentleman has adopted this procedure of indicating that the initiation process may be made by not less than 500 registered voters for provinces and cities, not less than 100 for municipalities, and not less than 50 for barangays. Would the Gentleman consider studying whether it might be better to go by percentage, using by analogy the Constitutional provision on constitutional amendment by initiative?

Senator Gonzales. Mr. President, the distinguished Minority Floor Leader suggested that in the course of his questionings to this Sponsor. And, if we can strike a figure that would not make it so prohibitive, so large, merely for purposes of initiating what we now call "initiative," the Committee will certainly consider the same.

Senator Maceda. On page 2, starting from subparagraph 3 on line 7 up to subparagraph 10 on the next page, this indeed contains good procedural points for which we commend the Gentleman from Mandaluyong. But, as could be

seen here, the gathering of signatures and the whole procedure could be rather involved. Is it really the intention of the Gentleman to be so specific, or would he rather leave this to the rule-making power of the COMELEC and the Department of Local Government?

Senator Gonzales. I think, although the Gentleman calls it procedural, it is something substantive. I think, it would have a greater weight and a greater recognition of the Peoples' Power, if we ourselves in the legislature enact it.

At any rate, there are other details which may be covered by rules and regulations. But insofar as this matter which we deem to be vital or essential in the process is concerned, I think it is better for us to enact the same, rather than delegate that authority to, let us say, the Department of Local Government, or to the Commission on Elections.

Senator Maceda. On page 3, Mr. President, subsection 11, the second sentence is a little confusing to me. Will he kindly explain to me the import of the second sentence?

Senator Gonzales. Yes, because we have said here that if at any time before the referendum is held, the local legislative body shall adopt *in toto* the proposition made, then the referendum shall be cancelled. Because there is no sense in going through this referendum if, after all, the local legislative body has already enacted it.

On the other hand, there may be people who may be against the said proposition now, an ordinance or a resolution, whichever it may be. So, those who are against the same should be afforded also to apply to the system of initiative and referendum.

That is why we say that those against said action may, if they so desire, apply for initiative and referendum in the manner herein provided. That is the essence of the first sentence, Mr. President.

Senator Maceda. Yes, Mr. President, This is one of those provisions where I believe that the second sentence technically refers to a request for referendum, and it is not really technically a matter of initiative.

Senator Gonzales. No, because the referendum by itself would really come from the local legislative body. When it is the people who themselves initiate, then we say it is initiative. But then, when a local legislative body would want to submit to the people, let us say, the approval of an ordinance passed by it, then we hold a referendum for that purpose. In this particular case, the local legislative body will not call a referendum, because it has already adopted the proposition by enacting the corresponding ordinance that would embody it.

Senator Maceda. Yes, exactly, Mr. President. This is one of those cases, where, if we say that they should apply to amend it, that is initiative. But, if we say that they want to bring to the public the rejection by the local legislative body, that is, maybe, in effect referendum. But, I think, in this particular point, that is exactly what I was trying to point out earlier. We may be mixing initiative and referendum.

Senator Gonzales. Those against, Mr. President, will have to go to the same process of initiative and referendum. So, they will still make the proposal to the local legislative body to repeal it.

Senator Maceda. Just like initiative.

Senator Gonzales. It is like any other initiative.

Senator Maceda. That is right, Mr. President.

Senator Gonzales. Then, if understandably, the local legislative body will not do so, so they can now go to signature-gathering.

Senator Maceda. Yes, exactly. When it comes from the people, that is initiative, that is my understanding.

Senator Gonzales. Yes.

Senator Maceda. But if the local legislative body or in case of the other provisions, if the Congress would bring it to the people for a vote, that is referendum.

Senator Gonzales. Basically, yes, Mr. President. So, in this particular case, it is not really "referendum."

Senator Maceda. In which case, if that is so, then for this particular case, we should delete "referendum." They are not going to apply for initiative and referendum. They are going to apply for initiative.

Senator Gonzales. That would be formal because, as the Gentleman has said, he would propose now a definition of terms. And if that definition of terms is duly accepted, then we will have to reshape the other provisions of the law to conform with that definition.

Senator Maceda. Now, just one or two more points on page 4. In Section 5, may I know the reason for adopting the three-year period? Local ordinances, barangay ordinances are such that conditions can be changed in a much shorter period. The three-year period is very common if it were, let us say, statutes, but I was wondering if there was any specific reason for the adoption of the three years instead of two, or of one, or whatever.

Senator Gonzales. Because we are avoiding here a situation where a local legislative body has made an adverse decision beforehand. That is why, the people who had to apply for initiative will be given an opportunity to repeal immediately a proposition that had been initiated and approved by the people. And I think, certainly, a proposition that has been approved through initiative, being a direct action of the people, should be given a greater weight than an ordinance that has been enacted merely by the people's representative. And as much as possible, the three years, Mr. President,

is made to conform with the terms of office of the local legislative bodies, starting with 1992. That is the reason therefor. But I hope the Gentleman will appreciate that while we are not closing the door to any repeal or amendment of that proposition, once it is adopted, we are merely requiring a qualified majority in order to do so, and it is only limited to the period of three years.

Senator Maceda. Maybe what we can do here, Mr. President, is review this matter to have, probably, a different rule for provinces and cities and even municipalities and, maybe, a different rule for barangays. I understand the explanation, but I could perceive or speculate on certain cases such as in a barangay situation, where there could be such an immediate change, whether it is by a natural calamity, insurgency, an evacuation, or by what not, where, as we know three years might be too long.

Senator Gonzales. This is not something handed down from Mount Sinai, Mr. President, and, therefore, we are willing to listen to or discuss any proposed amendment on this matter.

Senator Maceda. May I know whether Mt. Sinai is in Egypt, Israel, or is it in J. P. Laurel Street?

Senator Gonzales. Well, according to the Chairman of the Committee on Local Government, it is situated in Cotabato. *(Laughter)*

Senator Maceda. I see. Is it not in Cagayan de Oro, Mr. President?

Senator Gonzales. There is always a particular bias of this Body in favor of Cagayan de Oro City.

Senator Maceda. And Cagayan also for that matter, I think.

Senator Gonzales. Yes. That is why they are the only two places, I mean, most frequently said and heard in this Body. *(Laughter)*

Senator Maceda. All right, Mr. President. My

last point, and I wish to thank the Gentleman for his patience. I noticed, he is very patient this afternoon. *(Laughter)*

Senator Gonzales. I am very patient, Mr. President, because, according to the Majority Floor Leader, we have nothing else to do. Whenever this Body has nothing else to do, they always call upon me to do the dirty job. *(Laughter)*

Senator Maceda. The Majority Floor Leader, Mr. President, probably means that he has nothing else to do here, or after the session, not today, anyway. *(Laughter)*

Under Section 5, again, this is another provision where there is a tendency of confusion because there is, as I said, a distinction between initiative and referendum. As a specific example, how can we repeal an ordinance that is already disapproved in a referendum? Again, this is one of those provisions wherein we have to distinguish between initiative and referendum, Mr. President.

Senator Gonzales. We have heard what the observation is, but I am waiting for a question, Mr. President. I just merely take it as an expression of a view and, certainly, we have heard it, and we will give due consideration to it, allied with other matters that the Gentleman had pointed out previously.

Senator Maceda. I wish to thank the Gentleman, again, Mr. President, for his patience, and any time he tells me that a proposal is handed down from Mt. Sinai, I will defer to his proposal without any question.

Thank you, Mr. President.

Senator Enrile. Mr. President.

The President. Before the Gentlemen descend from Mt. Sinai, the Minority Floor Leader would like to take the floor.

Senator Enrile. With the permission of the two distinguished Gentlemen on the floor, I

would like to make a point of parliamentary inquiry.

I wonder whether the distinguished Sponsor, Mr. President, considered in the preparation of the proposed measure, the provisions of Section 3, Article X of the Constitution which seems to suggest that for local governments, the mechanism for recall, initiative and referendum has been embodied in a Local Government code. And I suppose this is properly so, because it is impossible to imagine a small municipality like Itbayat, Batanes, for instance, how to have the system of initiative and referendum, we require three percent of the registered votes of a district, and that is required under Section 32 of Article VI of the Constitution, under which the distinguished Gentleman has been making his argumentation in favor of his proposed measure.

Senator Gonzales. Mr. President, insofar as the percentage of votes required is concerned, that is mandated in Section 32 of Article VI. Now, of course, that would apply to a situation where there are provinces with more than one legislative district. Certainly, it cannot apply to those provinces which comprise a single legislative district. I think the Constitution is reasonable, and it should always be subjected to a reasonable interpretation.

Senator Enrile. The reason why I raised the point, Mr. President, was the way I understood Section 32. This provision requires Congress to provide the system of initiative and referendum where the people can directly propose and enact laws, or, the other power given is to approve or reject any act, or law or part thereof, passed by Congress or by the local government.

Now I think, the contemplated intention of this provision is for the initiative and referendum mentioned here to apply to the people of the nation at large, of a fairly large political subdivision of the land, because it justifies the 10 percent requirement of all the registered

voters in the geographical area covered by the initiative or referendum, in addition to three per cent of the registered voters of any district embraced therein. But when it concerns a municipality or a barangay. . .

Senator Gonzales. Ten percent, Mr. President.

Senator Enrile. Then, I believe that will have to be treated differently, and that must be covered and treated under Section 3 of Article X of the Constitution, which is actually the provision bearing on local governments, otherwise, we run into an absurd situation. For instance, in a small town which is a part of one district, like Taguig or Pateros in the Metropolitan area, we will require three percent of the entire district to be able to deal with an ordinance passed by the Municipal Council of Pateros.

Senator Gonzales. Can I answer that, Mr. President?

Senator Enrile. I think, it will be an absurd situation especially if we deal with the small barangay of Pateros.

Senator Gonzales. When the Constitution in Section 32 of Article VI, the latter part thereof. . .

Senator Enrile. I just raised this parliamentary inquiry Mr. President, for information.

Senator Gonzales. Yes, we have a long debate on this particular matter. I think, the question was asked by the Senate President Pro Tempore on this particular matter. And I think, the records of our proceedings will show that this has been the subject of a very lengthy debate.

The President. Is there any other interpellation?

Senator Aquino. Mr. President.

Senator Shahani. Mr. President.

The President. Senator Aquino is recognized, after whom we shall call on Senator Shahani.

Senator Aquino. May I ask the Gentleman from Mandaluyong two questions, Mr. President?

Senator Gonzales. I would appreciate those two questions, Mr. President.

Senator Aquino. Thank you. On page 3, Mr. President, lines 28 and 29: "Two or more propositions may be submitted in the same referendum." I am bothered by the "more." what does the Gentleman mean by "two or more?" Can he ask 50 questions in one referendum?

Senator Gonzales. Mr. President, there may be two or more initiatives; there may be two or more propositions; and certainly, submitting them at the same time would definitely be better than submitting them separately. For one thing, all of these will cost money, and the local legislative body would then bear the expenses of initiative and referendum. So as practiced in many other countries, two or more propositions are submitted in the same initiative or referendum.

Senator Aquino. Yes, Mr. President, but will it not be better if we put a limit to the number of points to be raised in one referendum?

Senator Gonzales. Let the people be the judge of that particular matter.

Senator Aquino. In other words, there is no limit. Is that the Gentleman's proposal?

Senator Gonzales. Yes, Mr. President, but we are trusting the good sense of our people to determine the number of propositions to be submitted.

Senator Aquino. Thank you.

The second question is based in Section 5 of page 4. It says here that any proposition adopted, approved, through the process of initiative or referendum provided shall not be repealed,

modified in any manner within three years except by a vote of two-thirds of all its members. He is referring to these "members" of the local legislative bodies, is this correct?

Senator Gonzales. Yes, that is correct.

Senator Aquino. Now, Mr. President, because of the citizens' initiative, and after due consultation with the local legislative body, and assuming they refuse to move on this particular issue, they decide to initiate this initiative, then it is possible that this initiative might be approved by the people. But by doing so, they have already antagonized the local legislative members. And when that happens, if they are antagonized, all they have to do is get two-thirds of their members and there is probably a collegial body; and repeal what has already been approved. In other words, I am afraid, that two-thirds of all its members that can repeal whatever initiative is presented, can thwart the will of the community.

Senator Gonzales. Mr. President, that is the very evil to which this provision is directed. Ordinarily, an ordinance or resolution can be repealed by the affirmative vote of a majority of all the members of a local legislative body. That is why, we are making it more difficult — that is two-thirds. At the same time, we are not also foreclosing or taking away absolutely from the local legislative body the power to repeal the same or to modify or amend it. But then, within the three-year period, we are saying that it can do so, not by a simple majority, but by a qualified majority which, in this particular case, is two-thirds of all the members of that body. Otherwise, it would be, at least, in the nature of irrevocable ordinance. And we always frown upon an ordinance that is irrevocable even for a shorter period of time.

Senator Aquino. Practically speaking, let us take the province of Tarlac. There are eight members of the Sangguniang Panlalawigan;

and then, maybe, the Vice-Governor is included, so that makes it nine. Two-thirds of them is six. And, originally, maybe, five were against whatever this initiative was. That is why, they did not decide to pass a local law on this. So all they have to do is get one more, and if they succeed by getting one more — to get six or two-thirds — they can repeal the will of the people.

Senator Gonzales. Mr. President, the members of the local legislative body are advised already that the people are behind this measure. And therefore, that is, in itself, the limitation against any capricious or arbitrary exercise of the power of repeal by a local legislative body. The Gentleman knows that he is actually thwarting, in his own words, the will of the people and the elective officials. Certainly, they have to think seven-fold before they take an action that is politically foolhardy, Mr. President.

Senator Aquino. So, what I was thinking, Mr. President, is to actually make it stiffer. If the people have passed on initiative like this, and as much as possible this should be tried out for at least three years, and to be repealed only by the unanimous decision of the local legislative body.

Senator Gonzales. We will consider it because he must have heard the opinion of Senator Maceda on this particular point. He feels that three years is quite too long, because conditions may actually warrant the repeal of the same. So our job here is to make a delicate balancing of this apparently conflicting interest. That is our job as legislators.

Senator Aquino. So maybe, in the period of amendments, Mr. President, we can probably submit a stiffer repealing clause, making it unanimous for all the local legislative bodies to repeal what has already been passed by initiative.

Senator Gonzales. We will be happy to listen to these proposed amendments, Mr. President.

Senator Aquino. Thank you, Mr. President.

Senator Shahani. Mr. President.

The President. Senator Shahani is recognized.

Senator Shahani. Thank you, Mr. President.

Will the Gentleman from Mandaluyong entertain some questions?

Senator Gonzales. Gladly, to the distinguished Lady Senator from Pangasinan.

Senator Shahani. First of all, I would like to say that I am happy that the Senate has addressed itself to the question of strengthening the democratic process at the grassroots level through initiative and referendum, which is really one of the ideals of the EDSA Revolution, as well as that of the sectoral groups which brought the Aquino Government into power. I would like to assure Senator Gonzales that I will support the principle which is at stake. However, I would like to raise some questions.

In his introductory statement, Mr. President, Senator Gonzales cited the cases of countries like the United States and Switzerland, where this practice had succeeded. But these countries, for instance, the U.S., particularly in California, and Switzerland, have really full-blown democracies. In other words, each person, more or less, knows what his responsibilities are and what the democratic process is all about.

Now, I think what concerns me at this moment is that we are a very divided country. There are so many factions existing. In the coming local elections for instance, even in my own province or region, there are now many candidates for mayor from the different parties like UNIDO, PDP-LABAN, Liberal Party, etc. It would be a huge problem of just how we shall be able to handle this political process when the local election time comes. I am sure the Gentleman knows how partisan issues can be at the

local level. Does the Gentleman really envisage — and I would say “realistically speaking” — that we are ready, at this stage, after having been under martial law for 14 years, and now we are going to the exercise of the local elections, that we can, in an objective and unemotional manner, go into this process of initiative and referendum without exacerbating and without reinforcing the factionalism which, I think, we are already anticipating at the local level? I am not really belittling the capacity of our people for the democratic process. But, I think, we have to expect that, psychologically, although in principle it may look good on paper. May I inquire from the distinguished Senator from Mandaluyong, Mr. President, whether he really believes that the country is ready for this kind of participatory democracy?

Senator Gonzales. I believe that we have to start somewhere. First, the question of efficacy of the system of initiative and referendum is a matter already decided by the Filipino people when they ratified the 1987 Constitution, which contains among others, Section 32 of Article VI and it says:

The Congress shall, as early as possible, provide for a system of initiative and referendum.

Therefore, this is not the time to debate on whether or not the system of initiative and referendum is efficacious because that is only a matter mandated by the Constitution itself.

Second, it is a part of the political education of our people; it is a part of the political learning process. I have had the occasion to advert to, in answer to some of the questions. Let us take as an example, the Barangay Charter or the Barrio Charter at that time. At the time it was initiated, ang sabi ay palabas lamang ito ni Presidente. Nobody really took seriously the Barrio Charter. And yet, it was later found out that the people took it as ducks would to water. That is why, we have several legislations

that actually broaden the powers of the barangays to such an extent that we experience a very radical change in our political system. Whereas before, the municipalities were the basic political units. Barangays are now the basic political units. And so we say that this is part of the learning process.

Third, that is why we have a very, very modest start. We are starting it only on the local level, and only to matters which are within the legal competence of a local legislative body to enact. As I have said, this is merely a beginning; this is merely a starter. And therefore, for these reasons, I sincerely believe that putting it there does not mean that the people will lose it. But then to those who feel they have acquired the awareness and have already achieved that degree of political maturity, will be given an opportunity to participate directly in the enactment or repeal of any local legislation that affects the enactment or repeal of any local legislation that affects them, or in the approval or rejection of any ordinance already approved by a local legislative body.

Senator Shahani. I wonder whether the distinguished Senator from Mandaluyong could think of introducing some safeguards in order to do away with traditional practices like vote-buying and terrorism which are involved in a process of this kind.

Senator Gonzales. Probably, the fears of the Senator from Pangasinan are over extended because this is not really an election. Probably, in a recall, yes, because personalities are involved; but not in initiative and referendum.

Senator Shahani. I would also like to reiterate that the Gentleman has already answered this question. This was raised by Senator Laurel; but I also would like to raise it, because I have seen it at work. For instance, the grip of this government does not really run throughout the entire Republic. There are places where the

NPAs or even some bandits are in control. For instance, in the town of Bugallon, Pangasinan, the NPAs just came down and occupied the municipal hall for two hours and nobody stopped them. They were there, and then they left.

Senator Gonzales. Yes, Mr. President.

Senator Shahani. This kind of usurpation of legitimate authority takes place quite often. Maybe, we do not feel it here in Manila, Mr. President, but these are the realities in outlying provinces. I do not feel too comfortable that a bill like this take no cognizance of the condition of peace and order in many parts of our country where the processes of initiative and referendum would take place.

Senator Gonzales. I think the situation that the distinguished Senator has pointed out is rather the exception, than the rule. At any rate, as I said, recall is more confrontational because it is a system by which the people could directly remove a local elective official; and yet, that is already a part of the Local Government Code. But initiative and referendum is something that is legislative and is limited merely to what the Sangguniang Bayan or whoever is in control of the same can legally do. And yet, we have not allowed the condition of law and order to deter the implementation of the constitutional requirement for a system of recall that the local government should embrace. I mean if we are to do that, our laws being governed by exceptional conditions or circumstances, probably, we may not be able to enact a legislation that is national in scope because the possibility of disruption which the Gentleman has pointed out would always be there in any kind of legislation which is of general application.

Senator Shahani. Mr. President, as I have said, I sympathize with the general intent of the bill, but I still, perhaps, would like to see a recognition of the actual realities existing in

this country and which by the way are not just exceptions.

Thank you, Mr. President.

Senator Herrera. Mr. President.

The President. Senator Herrera is recognized.

Senator Herrera. Thank you, Mr. President.

I have some few questions, if the Gentleman from Mandaluyong would be obliged to answer questions.

Senator Gonzales. It is a privilege, Mr. President.

Senator Herrera. At the outset, I would like to say that the proposal of the Gentleman from Mandaluyong is not only very novel, but would really strengthen the democratic processes that we have. So in principle, like my distinguished Colleague, Senator Shahani, I am also for the measure. However, I have some few questions. My first question is this: May I know if the Gentleman has made a study or consultation with the Commission on Elections as to the cost of conducting a referendum?

Senator Gonzales. We have asked for the comments or the position of the COMELEC with respect to this bill. We furnished them a copy of the same and we received a reply that they welcome it as a means of strengthening participatory democracy in our country. But no mention has been made regarding the cost. It proposed merely certain formal amendments to this bill. And here, to avoid the necessity of securing a certification of availability of funds, Section 8 says it shall be the ministerial duty of the local legislative body concerned to appropriate the necessary funds for the conduct of the initiative and referendum. Now, on the other hand, the national government shall extend financial assistance to local government units in meritorious cases so that the people's power of initiative and referendum may be exercised.

Senator Herrera. May I bring to the attention of the Gentleman that in the proposed bill the initiative and referendum may be conducted once a year. Now, I am anticipating that if five percent of the number of provinces that we have will conduct a referendum at least once a year, this will entail substantial costs. Let us consider the municipalities, about five percent of the present number of municipalities and barangays that we have will involve several millions of pesos. That is why, I am asking the question whether the Gentleman or the Committee has made consultations or has made a study as to the economic justification of this very important and novel proposal.

Senator Gonzales. I have been informed by the distinguished Senator from Tarlac that it would cost P2000 per precinct. I think the people themselves would realize whether or not they will resort to this measure. Probably, they may not. They may be able to influence the local legislative body and, therefore, obviate the necessity of recouring to or applying for initiative and referendum. I think there is a higher principle involved here. When it involves an exercise by the people of a right or a power to participate in the making of a decision that affects their lives, then, I think, we should not make any premium insofar as the amount to be spent therefor is concerned. We should be willing to pay the cost of democratic processes.

Senator Herrera. Precisely, I am asking this question, Mr. President, because the Body might approve the bill, and then later we cannot implement this because we do not have the money, therefore, we will only be creating false hopes and resentment among our people. That is why I feel that there should be a serious study as to the cost of conducting initiative and referendum.

Senator Gonzales. That is why, Mr. President, we have limited initiative and referendum to only once a year. That is the very purpose

because we know that this will cost money. Let us not underestimate our people. When the people themselves really want something to be done, which is their will, the resources will be available for that purpose, Mr. President.

Senator Herrera. But, Mr. President, even with that provision of allowing only the holding of a referendum once a year, please bear in mind that any average-sized province, will have about 30 municipalities. So we will have 30 referendums in the municipality, if each municipality will opt to have a referendum, and of course, the province, if it will opt to have a referendum, and then we will have to consider the barangay. So even if it is only once a year, I mean in terms of cost, it is not really that small amount.

Senator Gonzales. That will be in theory, Mr. President, because it is not easy. First, how do we initiate it? We do not immediately resort to initiative. They can request the local legislative body to enact it. Now, only when the local legislative body has refused to act or refused to move, then can we resort to it. Then we have the problem of signature-covering. All of these things are not very, very easy to do. The danger is that the law may be there, and yet the people have no interest whatsoever in utilizing it. That is what I am afraid of, Mr. President, not because of the political exercise.

Senator Herrera. But the Gentleman would agree that there should be a study in the cost of this, because of the amount that may entail as far as holding a referendum is concerned.

Senator Gonzales. Mr. President, I think, the cost is merely secondary because what is important to me is the process itself. As I have said in my sponsorship speech, at the beginning, what is more important is the process than the substance, because this is really something that we must develop as a new tool of democracy in our country and we must foot the bill.

Senator Herrera. As I have said earlier,

I would like to reassure the Gentleman that, in principle, I will support the bill. Now, the other question is whether we have a study as to the administrative requirements in conducting this referendum or initiative, especially, if we have to consider the fact that our present Commission on Elections is almost inept and incompetent.

Senator Gonzales. I would not be so harsh in my judgment of the Commission on Elections. In fact, I am one of those who are very critical. But when it was explained to us in detail what the Commission on Elections has done and what it has been trying to do during the 18 months of this Administration, then I began to realize that, sometimes, we pass judgment too harshly and too prematurely.

On the other hand, I have seen and read the proposed Local Government Code, and there is indeed a very short article on initiative and referendum giving to the Commission on Elections the power to promulgate rules and regulations to carry it out. And to me, that is an abdication of what we in the Senate can do. That is why, there is no hesitation on my part when, in answer to the same question by the Senate President Pro Tempore, I say and I can guarantee that this bill is better than the system of initiative and referendum as proposed by the Department of Local Government.

Senator Herrera. My question, Mr. President, is whether there is a study or consultation with the Commission on Elections regarding the administrative requirements in the implementation of this process in the event that we have to adopt it.

Senator Gonzales. Yes, we did, as I have said, Mr. President, that the Commission has expressed agreement with this bill and has suggested some formal amendments which will come out during the period of amendments.

Senator Herrera. Thank you, Mr. President.

And I also thank the Gentleman from Mandaluyong.

Senator Guingona. Mr. President.

The President. Yes. Senator Guingona is recognized.

Senator Guingona. A point of parliamentary inquiry, Mr. President.

In view of the fact that the Local Government Code also requires that recall, initiative and referendum be included, may we know from the Committee on Local Government whether they are already formulating such a code and when will such a code, if ever, be presented before the Body?

SUSPENSION OF THE SESSION

Senator Mercado. Mr. President, I move that we suspend the session for a minute.

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

It was 6:27 p.m.

RESUMPTION OF THE SESSION

At 6:29 p.m., the session was resumed.

The President. The session is resumed.

Senator Mercado. Mr. President, I ask that Senator Rasul be recognized.

The President. The point of parliamentary inquiry has been withdrawn, and at this juncture, Senator Rasul is recognized.

Senator Rasul. Thank you, Mr. President.

Will the distinguished Senator from Mandaluyong care to answer a few questions?

Senator Gonzales. I do care, Mr. President.

Senator Rasul. First of all, I would like the Gentleman to know that I fully support the idea of initiative and referendum because the acts of initiative and referendum proposed by his bill are consistent with people's power to which

this Government subscribes. Moreover, it is consistent with the new Constitution's provision enjoining Congress to provide a system of initiative and referendum as early as possible.

The success of initiative California, USA is well-known where Proposition 13, was subsequently reduced when Real Property Taxation was approved.

Initiative and referendum will operationalize the concept of people power because the power of legislation is not left solely to the elected local councils. If the bill is passed, the people will have recourse in proposing projects and policies which the legislative is unable or reluctant to act upon.

Furthermore, the bill provides or enacts safeguards against the abuse of initiative in which a minimum is required. And then, initiative or referendum cannot be held more than once a year, and, it can be done only when the local legislative body refuses to act.

Furthermore, the court interpretation is also allowed in Section 7. However, the successful operationalization of initiative and referendum requires a number of things; namely, first, there should be adequate information disseminated to the electorate whether through media or other means, to enable them to make meaningful decisions;

Second, there is a need for the presence of enlightened leadership among the population; and,

Third, there should be a political climate conducive to communication between the political leadership and the people.

My questions concern the implementation or the operationalization of the concept. How can the concept operate in an area where illiteracy is high? That is the first question I would like to ask, Mr. President.

Senator Gonzales. Mr. President, I think

it is for those who are politically aware to lead. I do not suppose there is any part in the Philippines where illiteracy is the rule rather than the exception.

And, at any rate, we can educate even the illiterates who, after all, are not even barred from voting. Because the literacy tests have been removed as a qualification in the exercise of the right of suffrage. And there is where the good Samaritan, in the Filipino spirit, must come out into the focus.

They might be illiterate in the sense that they cannot read and write; but certainly, we might be surprised, that we might be underestimating too much the native intelligence of our people, even if they be illiterate.

Senator Rasul. That is very true, Mr. President, the innate intelligence of the citizen is there. But if he can not read and write, how will he be informed about the issues?

And my second question has something to do with it. It is compounded by the existence of a high level of illiteracy. It is a well-known fact that, in many areas of our country, warlordism prevails.

Now, how can the idea work in an area where decisions are made by a few who control not only political power, but also fire power?

Senator Gonzales. Precisely, that is why we are affording the people. Now, they may fail, all right. But then they have, at least, a means. They know that they have a means within their power to break this stronger horn which actually is an easier exercise when they elect only a few members of a local legislative body, and, therefore, susceptible to dictation whether for political or economic reasons.

Actually, we are giving hope to our people in a situation where for years they have become

the victims of political warlords and otherwise.

Senator Rasul. Mr. President, I was wondering about propositions, because propositions have to be discussed by the electorates.

Senator Gonzales. Yes, Mr. President.

Senator Rasul. How can propositions be discussed intelligently in areas where people are geographically isolated and there is difficulty of transportation and communication?

Senator Gonzales. This is an initiative by a substantial number of people and, therefore, they will take it upon themselves first, to get the required number of signatures. That is all right. And after the required number of signatures are learned, they have to campaign for the proposition. And all of these would involve educating the electorate. All of them, the literates and the illiterates as well.

Senator Rasul. Mr. President, I fully subscribe to the idea; it is just the implementation that...

Senator Gonzales. Yes, it will not be easy; it promises no bed of roses. But then in the end, I think, our people shall overcome.

Senator Rasul. Thank you, Mr. President.

The President. Are there any further interpellations? (*Silence*)

The Majority Floor Leader.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 17 (System of Initiative and Referendum)

Senator Mercado. Mr. President, I move that we suspend consideration of Senate Bill No. 17.

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