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Friday, September 11, 1987

CONGRESS OF THE PHILIPPINES  
SENATE  
RECORDS AND ARCHIVES DIVISION  
CP-SENATE

OPENING OF THE SESSION

8th CRP  
1st REGULAR SESSION

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35

At 10:06 a.m., the Honorable Jovito R. Salonga, President of the Senate, called the Senate to order.

THE PRESIDENT. The Senate session is called to order.

Senator Estrada will lead us in the opening prayer.

## PRAYER

SENATOR ESTRADA. Mahal Naming Panginoon, inyo pong bendisyunan ang kapulu<sup>ng</sup>ang ito. Bigyan po ninyo ng malawak na pang-unawa ang bawa't isa sa amin. Gisingin po ninyo ang aming mga puso't damdamin, nang aming lubos na madama ang tunay na daing ng sambayanang Pilipino.

Bigyan po ninyo kami ng sapat na dunong, upang sa aming pagbalangkas at pagbuo ng mga panukalang batas ay mabigyan namin ng unang pansin ang mga bagay na makatutulong sa aming mga mahihirap na kababayan upang sila ay makaahon sa kanilang matagal nang pagkakabaon sa paghihikahos.

Hindo po lingid sa amin na ang ugat ng mga mabibigat na suliranin na ngayon ay hinaharap ng b<sup>a</sup>sa, gaya ng krisis sa ating ekonomiya, laganap na krimen, welga ng mga tsuper, mang-gagawa at mga guro, ang malaking pagkakautang sa labas, ang problema sa Mindanao at himagsikan sa maraming sulok ng kapuluan, at marami pang iba, ay ang karalitaan.

Dahil dito, dalangin din po namin, Mahal Na Panginoon, na inyo pong alisin sa aming mga puso at damdamin ang hangaring pansarili at ang pampulitika, at sa halip ay itanim po ninyo sa aming mga isipan ang hangaring magkaisa at magkatulong-tulong sa paggawa ng mga kinakailangang hakang tungo sa ikahahango at sa ikauunlad ng aming naghihirap na mga kababayan.

NOT TO BE TAKEN OUT OF THE  
RECORDS AND ARCHIVES DIVISION

Kung ang mga bagay na ito ay aming maisasakatuparan, kami pong lahat, ang buong dalawampu't apat na Senador na sa kasalukuyang Senado ng Republika ay makatutupad hindi lamang sa aming mga sinumpaang tungkulin, kundi pati na sa banal na kautusan ng Aming Panginoon nang kangang sabihin, ayon sa isinulat ni Saint Matthew in the New Testament, verse 40, Chapter 25, the Lord said, "Whatever you do to the least of my brethren, you do unto me".

Amen.

SENATE ARCHIVES (LR10)

## ROLL CALL

THE PRESIDENT. The Secretary will please call the roll.

THE SECRETARY.

Senator Heherson T. Alvarez .....	Present
Senator Edgardo J. Angara.....	
Senator Agapito A. Aquino .....	*
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 .....	Present
Senator Sotero H. Laurel .....	Present
Senator Jose D. Lina, Jr. ....	Present
Senator Ernesto M. Maceda .....	Present
Senator Raul S. Manglapus .....	Present
Senator Orlando S. Mercado .....	Present
Senator John H. Osmeña .....	*
Senator Vicente T. Paterno .....	Present
Senator Aquilino Q. Pimentel, Jr....	Present
Senator Santanina T. Rasul .....	Present
Senator Alberto G. Romulo .....	Present
Senator Rene A. V. Saguisag .....	Present
Senator Leticia Ramos Shahani .....	
Senator Mamintal Abdul J. Tamano...	Present
Senator Wigberto E. Tañada .....	Present
Senator Victor S. Ziga .....	Present
The President .....	

Senators

THE PRESIDENT. With 20/present, there is a quorum.

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\* They arrived after the roll call.

## JOURNAL

SENATOR MERCADO. I move that we suspend the reading of the Journal of the previous session and consider the same as approved.

THE PRESIDENT. Is there any objection to the motion? (Silence.) The Chair hears none; the same is approved.

SENATOR MERCADO. Mr. President, I move that we consider Senate Bill No. 38:

AN ACT REPEALING SECTION FORTY OF PRESIDENTIAL  
DECREE NUMBERED EIGHT HUNDRED SEVEN,  
OTHERWISE KNOWN AS THE CIVIL SERVICE  
DECREE

We are in the period of amendments, I believe, and I would like to request that we recognize Senator Gonzales.

THE PRESIDENT. Senator Gonzales is recognized.

SENATOR GONZALES. Mr. President...

SENATOR GONZALES. Mr. President, in the course of interpellations made by Senators Guingona and Osmena and other Members of this Body, I have pointed out that the remedy for feelings of frustrations, because of the long and protracted procedure in disciplining officers and employees belonging to the Civil Service, does not lie in changing or amending Senate Bill No. 38, insofar as it seeks/ repeal of Section 40 of the Civil Service Decree. But the remedy lies in amending other provisions of the same, particularly Sections 36, 37, and 38 of the said Civil Service Law. And with that on mind, Senator Guingona and myself have strived to prepare the said amendments which we will incorporate in Section 38. The amendments, however, are so extensive that, probably, copies of the same should first be distributed among the Members of this Body to give everyone an opportunity to look over these proposed amendments.

Therefore, may we request that we suspend the session for about five minutes to enable us to effect the distribution, and find out if we will be ready thereafter to proceed with the consideration of Senate Bill No. 38.

SENATOR GUINGONA. Mr. President.

THE PRESIDENT. Senator Guingona is recognized.

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SENATOR GUINGONA. Mr. President, we have on hand the necessary copies for distribution. It was delayed because of the typing this morning only. And so, in line with the suggestion, we will have this distributed now, and then, perhaps, after a few minutes suspension, we can proceed, Your Honor, please.

SUSPENSION OF THE SESSION

THE PRESIDENT. Session is suspended for a few minutes.

It was 10:13 a.m.

SENATE ARCHIVES (LRAS)

## RESUMPTION OF THE SESSION

At 10:26 a.m., the session was resumed with the Honorable Jovito R. Salonga, President of the Senate, presiding.

THE PRESIDENT. Session is resumed.

SENATOR GONZALES. Mr. President, we want to put on the record that copies of the bill, together with the amendments that I have earlier mentioned, have already been distributed among the Members of this Chamber. But just looking at the amendments, they are far more extensive than the original coverage of Senate Bill No. 38, and I, therefore, request that the author of these amendments, Senator Guingona, be recognized in order to sponsor these amendments which are more extensive in character.

THE PRESIDENT. Senator Guingona.

SENATOR GUINGONA. Yes, Mr. President. The proposed amendments include the repeal of Section 40 of the Civil Service Law which is the main bill under consideration. It seeks to complement the fact that we are deleting the summary procedure embodied in the Civil Service Law. It now balances that by updating and expediting while at the same time recognizing the basic substantial rights of respondents in the procedure of dispatching civil service complaints against civil service employees, Mr. President. It also adds additional grounds for complaints and it also amends the periods of appeal as previously provided in the Civil Service Law.



Since the amendments, Mr. President, are a little more extensive than originally intended, it has been suggested that the consideration of this measure be deferred until Monday to give more time to the members to study the amendments proposed, Mr. President. We have already distributed copies of the proposed amendments to everyone.

SENATOR MERCADO. Mr. President.

THE PRESIDENT. The Majority Floor Leader.

SENATOR MERCADO. I move that we suspend consideration of Senate Bill No. 38 till Monday.

THE PRESIDENT. Is there any objection? (Silence) Hearing none; the same is approved.

SENATOR MERCADO. Mr. President, I move that we consider Senate Bill No. 17: 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 RESOLUTION OR ORDINANCE PASSED BY THE LOCAL LEGISLATIVE BODY. And for the purpose, I request that we recognize Senator Gonzales.

THE PRESIDENT. Senator Gonzales.

SENATOR GONZALES. Mr. President, before I start my sponsorship speech ...

SENATOR GONZALES.

...sponsorship speech, I wish to put on record that Senator Joey Lina is also one of the sponsors of this Bill.

Mr. President, Distinguished Colleagues, I rise to sponsor, together with Senator Aquilino Pimentel, Jr., Chairman of the Committee on Local Governments, and Senator Joey Lina, Senate Bill No. 17 which is entitled:

AN ACT  
PROVIDING FOR A SYSTEM OF INITIATIVE AND REFERENDUM,  
AND THE EXCEPTIONS THEREFROM, WHEREBY THE 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 LEGIS-  
LATIVE BODY.

This Bill is an implementation, Mr. President, of Section 32 of Article VI of the 1987 Constitution which provides that: "The Congress shall, as early as possible, provide for a system of initiative and referendum, and the exceptions therefrom whereby the people can directly propose and enact laws, or approve or reject any act or law or part thereof passed by the Congress or local legislative body after the registration of a petition therefor signed by at least ten percentum of the total number of registered voters of which every legislative district must be represented by at least three per centum (3%) of the registered voters thereof."

Simply stated, Mr. President, initiative is a popular

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10:25 a.m.

and democratic device which permits a certain percentage of the voters to put on the ballot on the ballot a proposed legislation especially when the legislative body had failed or refused to act.

Referendum, on the other hand, allows the right to accept or reject legislation.

In his book Megatrends, John Naisbitt describes the shift of American democratic process from one of representative to that of participatory. With the ethic of participation, citizens, workers, and consumers act as one in getting a greater voice in government, business and the marketplace. According to Naisbitt, the guiding principle behind participatory democracy is that "people whose lives are effected by a decision must be a part of the process arriving at that decision." In America, it has revolutionized local politics with the unprecedented growth in the use of initiatives and referendums.

Historically, Mr. President, referendums as a means of making government decisions or giving legitimacy to them is as old as democracy itself. It had been however invoked sporadically, both by authoritarian regimes and democratic countries. Among democratic nations, only Switzerland has been making use of it continuously while in the United States, the State of California has popularized it. In the 1970's, interest in referendum and initiative became more pronounced....

SENATOR GONZALES.

initiative became more pronounced.

Why are initiatives and referendums widely used only in Switzerland and a dozen states in the American union, it may be asked. And the answer is that because only in these countries and places was there a long experience of people's assembly, called Landsgemeinden in Swiss cantons and town meetings in New England. The American frontier, because of its lack of governing bodies, resorted to assemblies.

In the Midwestern States--South Dakota, Utah, Oregon--the approach to constitutional amendments was the initiative, both for constitutional amendments or ordinary legislation. In the localities, 39 states require or allow various units to hold referendums. And they make full use of their powers. The most frequent of these are on the issue of local bonds and the raising of local taxes to expand public facilities. Others include floridation and housing racial discrimination.

California is one of the leading states which has made widespread use of direct legislation, particularly the initiative--the right of the people to petition to place constitutional amendments and statutes directly on the ballot without recourse to the legislature or the governor.

Initiative and referendum came to California in 1911 when a 3 to 1 majority of 220,000 voters were involved. Today, it is part of its political culture.

12

The most popular exercise of initiative and referendum in California was on Proposition 13. This proposition which was voted on June 1978, was properly described as the Property Tax Limitation Initiative. It became popular primarily because it was hotly contested and the fact that there were more who voted on this issue than that of the simultaneously held gubernatorial election. Because of its controversial nature, the campaign took on that of a regular political campaign. Voting intentions were clear.

Those voting "yes" focused on two main themes--"Taxes are too high" (51%) and "The time has come to cut government costs, waste and inefficiency" (46%). Comments by those voting "no" included: "Would mean too big a cutback for schools" (27%) and "Would put too many teachers, firemen, and policemen out of jobs." (19%). The proposal cut property taxes by 57%, to one percent of the appraised value.

Aside from the tax limitation initiative, there were other controversial initiatives in California during the sixties and the seventies. These included the Senate reapportionment, the agricultural labor relations initiative, the nuclear power initiative, the tax and expenditure limitation initiative, and the death penalty initiative.

But even in America, initiative has not been used on a national level. In 1977, Senator James Abourezek (Democrat, South Dakota), introduced a bill in the Senate which proposed an amendment to the United States Constitution under which legislation on most subjects could

12

SENATOR GONZALES... subjects could be set before the voters by a popular petition, to be signed by a number of votes equal to 3% of the ballots cast in the most presidential elections and signed by 3% of the voters in at least 10 different states. The bill, however, specifically exempted from action by initiative constitutional amendments, declaration of wars and calling up the militia. Any petition certified as valid by the Secretary of State would be put on the ballot at the first congressional election after the certification, and any proposal approved by a majority voting on it would become a law thirty days after election. For two years thereafter, such a law could be repealed only by a two-thirds votes of the full membership of both houses of Congress, though after that it could be repealed by an ordinary congressional majority. The Abourezek bill never reached second base.

The 1987 Constitution extends recognition to the processes of initiatives and referendums as "tools for the new democracy" in the Philippines. Section 32 of Article VI read as follows:

"The Congress shall, as early as possible, provide for a system of initiative and referendum, and the exceptions therefrom, whereby the people can directly propose and enact laws or approve or reject any act or law or part thereof passed by the Congress or local legislative body after the registration of a petition therefore signed by at least three per centum of the total number of registered voters, or which every legislative district must be represented by at least three per centum of the registered voters thereof."

Likewise, the role and rights of people's organization have been engrained in our fundamental law as shown in the following provisions:

Section 15 of Article XIII, provides:

"The State shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and

collective interests and aspirations through peaceful and lawful means."

"People's organizations are bona fide associations of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership, and structure."

Section 16 of Article XIII, provides:

The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms.

Senate Bill No. 17 recognizes that initiatives and referendums are recent innovations in our political system. And recognizing that, it has adopted a cautious approach by: First, allowing them only when the local legislative body had refused to move; Second, Not more frequently than once a year; and, Third, limiting them to the national level.

As earlier adverted to, Mr. President, even in a highly advance country, like the...

SENATOR GONZALES.

...<sup>u</sup> contry like the United States, initiative and referendum have not been attempted on a national level. Should it succeed in local government units, then, the system may be extended nationally as contemplated in the Constitution. Perhaps, considering that this is merely a starter like Proposition 13 in California, what should be given initial importance is not really the substance but the process where initiative can be the first step towards Naisbitt's "participatory democracy".

Briefly, Senate Bill No. 17 provides in Section 1 that the power of the people to directly propose and enact resolutions and ordinances or approve or reject, in whole or in part, any ordinance or resolution passed by any local legislative body upon compliance with the requirements of this Act is hereby affirmed, recognized and guaranteed.

Under Section 2, Mr. President, the power of initiative and referendum shall be exercised by the registered voters of provinces, cities, municipalities, and barangays or barrios. How do we initiate them? Under the second paragraph of Section 2, they shall be validly initiated only upon petitions therefor signed by at least ten per centum (10%) of the total number of registered voters of a local government unit, of which every legislative district, in case of provinces or cities with more than one legislative district, must be represented by at least three per centum (3%) of the registered voters.

Now, Section 3 describes the procedure, Mr. President.



16

A group of registered voters, not less than five hundred (500) in case of provinces and cities, one hundred (100) in case of municipalities, and fifty (50) in case of barangays or barrios, may file a petition with a local legislative body proposing the adoption or enactment, amendment or repeal, of any ordinance or resolution.

If no favorable action thereon is made by the local legislative body within thirty (30) days from its presentation, the proponents may invoke the people's power of initiative and referendum giving notice thereof to the local legislative body concerned.

As this is a very cautious approach that if, at any rate, what the people would want can be done already by the local legislative body, there could be no reason why resort should be made to initiatives and referendum. And then, it is only when the local legislative body refuses to move or to act upon a petition that resort to these rights may be availed of.

Then, the proposal shall be called "proposition" and numbered serially starting from number one. The Secretary of Local Government or his designated representative shall extend assistance in the formulation of the proposition.

Now, the proponents are given ninety (90) days in case of provinces and cities, sixty (60) days ...

SENATOR GONZALES.

sixty (60) days in case of municipalities, and thirty (30) days in case of barangays or barrios from notice mentioned in paragraph (2) hereof to collect the required number of signatures. The proposition shall be in writing and every page to be signed by the voters shall contain an abstract or summary of the proposition in not more than one hundred (100) words legibly written or printed at the top thereof. The purpose of the same is that those who would sign the petition will, at least, be informed of the substance of the proposition and that they have knowingly and intelligently signed the petition.

The proposition shall be signed before the election registrar or his representative, and in the presence of a representative of the proponents and a representative of the local legislative body concerned, and in a public place in the province, city, municipality or barangay or barrio, as the case may be. Signature stations may be established in as many places as may be warranted. Now, this process, at least, ensures that there are no fictitious signatures, that the signatures must be affixed not only in a public place but in the presence of a sort of a committee which will be composed of the election registrar or his representative and a representative of the proponents, as well as of the <sup>local</sup> legislative body.

The election registrar shall verify the signatures on the basis of the registry lists of voters used in the election immediately preceding the referendum.

Upon the lapse of the period as earlier provided, the Commission on Elections, through its office in the local government unit concerned shall certify as to whether or not the required number of signatures has been obtained. Failure to obtain the required number is a defeat of the proposition.

18.

If, on the other hand, Mr. President, the required number of signatures is obtained, the Commission on Elections shall then set the date for the referendum at which the proposition shall be submitted to the registered voters in the local government unit concerned for their approval or disapproval within forty-five (45) days in case of provinces and cities and thirty (30) days in case of barangays or barrios from the date of the certification. The referendum shall then be held on the date set, after which the results thereof shall be certified and proclaimed by the Commission on Elections.

The provisions of the Election Code and applicable laws shall apply to initiatives and referendums in a suppletory character.

Now, if the proposition is approved by a majority of the votes cast in the referendum, it shall take effect fifteen (15) days after certification by the Commission as if action thereon had been made by the local legislative body concerned, as well as the local executive. It simply means that if the proposition will take effect as if it has been enacted by the local legislative body and approved by the local executive, whether he be the provincial governor, city or municipal mayor.

Now, two or more propositions may be submitted in the same referendum.

The power of initiative and referendum shall not be exercised oftener than once every year.

The purpose of this, Mr. Speaker,...

19

SENATOR GONZALES. . . The purpose of this, Mr. Speaker is that referendum always, I mean, would always cost money and, as we have said, this is merely an experiment, an innovation in our political system and therefore we should adopt a cautious approach to this. Probably, if it ~~has~~ is demonstrated that the people's interest in the use of these tools of democracy had sufficiently increased, then there will be time when we can authorize the holding of initiatives and referendum more frequently than once every year.

Sec. 4, Mr. President, ~~\_\_\_\_\_~~

"Any local legislative body may submit to the registered voters of a province, city, municipality, or barangay or barrio, for approval or rejection any ordinance or resolution duly enacted by it."

Now, a local ordinance, may, Mr. President, approve, a local legislative body, Mr. President, may approve a local tax ordinance while the local tax ordinance may be made effective upon the decision of the local legislative body but the local legislative body may want popular support therefore and therefore it may throw the same to the people by means of referendum.

The referendum shall be held under the control and direction of the Commission on Elections within ninety (90) days in case of provinces and cities, sixty (60) days for municipalities, and thirty (30) days for barangays or barrios. The Commission on Elections shall certify and proclaim the results of the said referendum."

Under Section 5:

"Any proposition adopted and approved through the process of initiative or referendum as herein provided shall not be repealed, modified, or in any manner changed by the local legislative body concerned within three (3) years from its approval except by a vote of two-thirds of all of its members."

Now, we have adopted the three-year period <sup>because</sup> beginning 1992. The term of office of local elective offices would be three years.

Now, what is the reason? The ordinance or resolution so passed is not in the nature of an irrevocable law. An amendment or repeal of the same can still be done even within that three-year period but through a qualified majority of all the members of the local legislative body, in this particular case, by a vote of two-thirds of all of its members.

What is the reason therefore, Mr. President?

Because certainly, a proposition that had been approved by the direct action of the people can not simply be repealed by the local legislative body, because otherwise, the

proposition may be approved today and next week. A local legislative body who <sup>have</sup> may/earlier acted adversely on it will be given the power to , in effect, veto that action of the people by repealing it by a simple majority vote.

"The Commission on Elections and the . . . Secretariat of Local Government shall jointly adopt and promulgate rules and regulations to carry out the purposes of this Act."

Much as we try to foresee the problems and therefore provide for the details, it is just impossible for Congress to do so. And that is why we have stated the broad policies and provisions of this law leaving the matters of details for rules and regulations to be jointly adopted by the Commission on Elections

SENATE ARCHIVES (LPRS)

SENATOR GONZALES

. . .  
Commission on Election and the Secretary of Local Governments.

Then nothing in this Act shall prevent or preclude the proper courts from declaring null and void any proposition approved pursuant to this Act for violation of the Constitution or want of capacity of the local legislative body concerned to enact said measure.

For example, a proposition even if adopted by the Constitution would be violative of any of the rights guaranteed by the Constitution. Or, however well motivated is beyond the authority or the scope of power of the local legislative concerned, then the same, in the exercise of the power of judicial review can be declared null and void by the courts in a proper case filed with it.

And, finally, 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. The National Government shall extend financial assistance to the local governments units in meritorious cases so that the people's power of initiative and referendum

may be exercised.

This, Mr. President, and my distinguished colleagues are the main provisions of Senate Bill No. 17, and it is our hope that after due consideration and deliberation a favorable action by this Body will be given to it.

Thank you, Mr. President.

THE PRESIDENT. Any interpellation?

SENATOR ENRILE. Mr. President.

THE PRESIDENT. Senator Enrile is recognized.

INTERPELLATION BY SENATOR ENRILE.

SENATOR ENRILE. Thank you, Mr. President.

I must congratulate my distinguished Colleague from Mangaluyong for his very profound presentation of this very novel issue and measure, Mr. President.

<sup>humble</sup>  
This representation and the opposition in this Chamber agree wholeheartedly that we must comply with this provision of the Constitution.

However, I have a few questions to ask, Mr. President, if my distinguished Colleague would care to answer some questions.

SENATOR GONZALES. Willingly, from the distinguished Majority Floor Leader (correcting himself, Minority Floor Leader).



I hope the tables have not been changed in so short a period of time. (Laughter)

SENATOR BERRILL. The titles are not that important, Mr. resident.

Mr. President, we agree that we must now give meaning to this mandate of the Filipino people, and I am just wondering--what are the areas that could be covered by initiative and referendum exercisable by the Filipino people?

Is it the understanding of my distinguished colleague, for instance, Mr. resident, that through initiative and referendum the people of a given locality, let us say, a province, a city or a municipality can perhaps propose the adoption of a land reform program peculiar to the province, the city or municipality?

SENATOR GONZALES. Certainly, the scope of the subject of local initiatives and referendum will be those which are within the authority or capacity of a local legislative body. Let us say, the Sangguniang Panlalawigan, the Sangguniang Ikalunsod or Sangguniang Pambayan or Sangguniang Barangay to enact.

That is why, probably, for example, the people may want the reimposition of the death penalty, but a local sanggunian

has no power to do so. And so, that is beyond the power of initiative and referendum. Although initiative and referendum may also be used for that purpose in the form of a resolution recommending . . .

SENATE ARCHIVES (LRAS)

. . . in the form of a resolution recommending to the Congress that it is the sense of the people in that local legislative body that the death penalty should be reimposed and, therefore, recommending to the Congress the adoption of such measure.

SENATOR ENRILE. I raised this question, Mr. President, because reading the Constitution, especially this specific provision upon which the distinguished Gentleman from Mandaluyong now anchors the present draft bill

There is no limitation on the powers that may be exerciseable or any proposition that may be proposed by the people through initiative and referendum.

That is why, I am trying to test, Mr. President, the limits of power that the people could probably consider in the use of their power of initiative and referendum.

So, I am asking whether, let us say, the case of the City of Tangub in Misamis Occidental with a population, probably, of little over 20,000, Could they adopt their own concept of Land Reform Program through the avenue of initiative and referendum?

SENATOR GONZALES. Your Honor, obviously not, because the local legislative body of that city, the Sangguniang Panlungsod has no authority to enact that ordinance. And so, the people of that city, in the exercise of the power of initiative and referendum, cannot do so.

Now, what we are trying to say is, we are starting on a very novel and untried-political system. That is why, we are going slow on this particular matter.

So, we have provided in:

"SEC. 7. Nothing in this Act shall prevent or preclude the proper courts from declaring null and void any proposition approved pursuant to this Act for violation of the Constitution or want of capacity of the local legislative body concerned to enact the said measure."

SENATOR ENRILE. I am happy, Mr. President, that my distinguished Colleague pointed to that provision and, precisely, because of that provision that I was tempted to ask this question, because it would seem that the residents of a given city, province, or municipality could initiate any proposition under the power of initiative and referendum, subject to the power of the Supreme Court in a given case

27

to decide whether they have the power or not.

SENATOR GONZALES. Your Honor, then, I think, that what probably could be done here, if that is the intention of the Gentleman from Cagayan, is that when we consider the Comprehensive Land Reform Program, then, he can suggest a provision that allowing, let us say, the voters in any political subdivision by means of initiative and referendum to adopt the land reform system that will be applicable therein, considering the peculiar circumstances and conditions obtaining in that locality.

But under this bill, there is no intention to give them the power beyond that which can be exercised by the local legislative bodies.

SENATE ARCHIVES (LRAS)

29

SENATOR ENRILE. Mr. President, I am not trying to suggest anything. I am just testing the understanding of my distinguished Colleague as to the powers or matters that would be covered by the people of a given province, city or municipality or barangay, for that matter, through their constitutional power to adopt measures through initiative and referendum.

Now, my next question, Mr. President, is this. Could, through this initiative and referendum power of the people of a province, city, municipality or barangay adopt a system of taxation peculiar to their province, city, municipality or barangay, for instance, in the form of estate and inheritance tax, or income tax, which is uniform and equal in that province, in that city, in that municipality, or in that barangay?

SENATOR GONZALES. My answer to that question as well as to the previous question and any other similar question on the subject matter hereafter will be the same: that the grant of authority to the local legislative body is also the parameters of the powers that the people in a local government unit can exercise through initiative and referendum. Probably later, we may find it more prudent and wise to

broaden the grant of the power. But we are starting on something. For example, Your Honor, when the barangay charter was started during the time of President Magsaysay, then everybody was laughing at it at the beginning. They thought it was more of a "palabas." But when the matter was taken seriously by the people then gradually the powers of the barangays as well as ... I mean had been broadened to the extent that later barangays or barrios were declared by law as the basic political unit replacing the municipalities. So, I feel that we should adopt the same approach. While we are willing to recognize that probably there might be a greater grant of powers to the people since they are the source of sovereign powers, then a cautious start at the beginning would be more prudent and wise.

SENATOR ENRILE. So, they cannot do that. My understanding from the answer of my distinguished Colleague that the residents of provinces, cities, municipalities and barangays cannot do what I suggested?

SENATOR GONZALES. Yes, Your Honor. Because, as I have said, in this, as a starter, we are saying that the power of initiative and referendum can be resorted to only if the local legislative body have refused to ~~move~~. All right. There being a petition to it and

31

the local legislative body refused to move because while it says that it is not within our power to do so but in spite of that the referendum still had taken place and for one reason or another in spite of the fact that this issue was raised during the referendum campaign, it was nonetheless approved. All right. Then, like any other ordinance, however, any citizen who is a proper party can in a proper case contest the validity of this proposition on the ground that it is beyond the powers of the local legislative body and, therefore, of the people through initiative and referendum to enact or adopt.

SENATOR ENRILE. Mr. President, can they possibly adopt through initiative and referendum a proposition limiting the movement of people in their province, in their city, in their municipality within circumscribed hours?

SENATOR GONZALES. Well, Your Honor please, I would say that under normal circumstances that would come probably close to a violation of the people's right to travel, ~~the~~ liberty protected by due process, I am saying under normal or ordinary conditions or circumstances.



SENATOR ENRILE. Would they be able perhaps, Mr. President, to impose a provincial residence tax, or a city residence tax, or a municipal residence, or a barangay residence tax through initiative and referendum?

SENATOR GONZALES. Under existing laws, they cannot do so because the power is denied to the local legislative bodies.

SENATOR ENRILE. How about establishing their own type of rondas in their provinces, in their cities, in their municipalities,

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SENATE ARCHIVES (LRAS)

33

Senator Enrile.

in their cities, in their municipalities and barangays. Can they make a provision such as that through initiative and referendum?

SENATOR GONZALES. Did I hear their own "ronda" system?

SENATOR ENRILE. "Ronda" system.

SENATOR GONZALES. Well, I believe that even under existing laws, the municipal council or saggunian can do so, requiring able-bodied inhabitants to render police or patrol duty for certain number of days, and to assist the law enforcement officers in the apprehension of malefactors and lawbreakers. And I recall, Your Honor, that the validity of the said ordinance was upheld in the case of U.S. versus Pompeia.

SENATOR ENRILE. Can they, therefore, Mr. President, provide their own militia through initiative and referendum-- a provincial militia, a city militia, a municipal militia, or a barangay militia--to this new power that we are granting to our people by way of initiative and referendum?

SENATOR GONZALES. The power to create and organize a police, a militia or a paramilitary unit is an exercise of

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sovereign power which a local government unit cannot exercise unless there be an expressed grant of the power.

SENATOR ENRILE. But I understand, Mr. President, in our Constitution, the Philippines is a republican state, sovereignty resides in the people and all government authority emanates from them.

SENATOR GONZALES. Yes, Your Honor, but the same Constitution also provides how that sovereign power is to be exercised. And with the people themselves so provided, then it means that in the exercise of these sovereign powers, they have imposed the manner in which those powers are to be exercised.

SENATOR ENRILE. Mr. President, could, through initiative and referendum <sup>it</sup> be a basis to authorize the people in a province, in a city, in a municipality or barangay to reduce what they consider to be very burdensome, real estate tax being paid by them under existing tax laws?

SENATOR GONZALES. I think that there is a grant of taxing power to local government units. And in fact, we have now to change our former view that there is no inherent power of taxation to local government units since the Constitution

itself provides that the local government units may levy taxes and create their own sources of revenues subject to such limitations as may be provided by law. In short, that is already a grant of the taxing power to local government units and, therefore, the local tax code should be viewed not as a grant of the taxing power -- because the taxing power is already granted by the Constitution to local government units -- but merely as limitations in the exercise thereof. And, therefore, subject to the limitations provided in the local tax code as well as other pertinent laws, the taxing power can be exercised to the hilt by local government units.

SENATOR ENRILE. Mr. President, in the field of business, could the people in a given province, in a given city or in a given municipality, for instance, limit the participation of certain persons belonging to certain ethnic groups in the economic life of a given province, of a given city, a given municipality or a given barangay through initiative and referendum?

SENATOR GONZALES. No, Your Honor, because that will be ultra vires. It will not be within the powers of a local government unit to enact, and besides, to my mind, <sup>it</sup> would be

violative of certain basic guarantees in the Constitution, like  
the right to the equal protection of the laws, and also the  
due process

SENATE ARCHIVES (LRAS)

37

Senator Gonzales.

... and also the due process clause of the Constitution.

SENATOR ENRILE. Would they be in a position, Mr. President, for instance, especially provinces, cities, municipalities or barangays bordering on our coastlines, to limit the types of fishermen that would exploit the fishing resources in their surrounding coastal lines through initiative and referendum?

SENATOR GONZALES. What would be the basis of the classification, Your Honor? Because your question contemplates a measure that allows some and prohibits others, and, therefore, normally, the assault on it would be that it would be a class legislation. And the only way to save it from any constitutional infirmity is to determine whether or not the classification is reasonable. And for the classification to be reasonable, then it must be first, based upon substantial distinctions which make real differences; second, that the classification is germane to the purpose of the law; third, that it is not limited to existing conditions only; and, finally, it is applicable to all or to all of a class.

SENATOR ENRILE. Well, Mr. President, could they possibly pass, through initiative and referendum, a proposition prohibiting, for instance, fish corals or trawlers fishing within so many miles from the shoreline, and so forth, and so on?

38

SENATOR GONZALES. Well, there is a Fishery Law that actually regulates fishing within municipal waters, but I do not have the ready answer as to whether or not there is a grant or conferment of that power to the local legislative bodies. And so, as in previous questions, my answer will always be, whether or not the same is within the powers of a local government unit to enact.

SENATOR ENRILE. So, in short, therefore, Mr. President, this proposed measure, granting initiative and referendum to our people, is limited to what is now granted to local governments to enact or exercise through their legislative assemblies.

SENATOR GONZALES. Yes. As a beginner, Your Honor, that is correct, and that is why we have even said that the people can resort to initiative and referendum, only when the local legislative body had refused to move.

SENATOR ENRILE. Thank you, Mr. President. My other question is this, Mr. President.

I noticed that there is no penalty provided in this proposed measure in those cases where the exercise of initiative and referendum by the people would be thwarted by influential persons in the community, especially the ruling political leadership, in the event that their prerogatives would be affected by the exercise of initiative and referendum. May I know from the distinguished Gentleman why such a consideration was not taken in the drafting of the bill?

39

SENATOR GONZALES. Yes, Your Honor, because we thought that there are already penal sanctions since initiative and referendum shall be governed by the provisions of the Election Code. Most of the violations in the conduct of the initiative and referendum would be already covered by the penal provisions of the Omnibus Election Code and other election laws. But I see your point, Your Honor. This is entirely something, with respect to officials or individuals who obstruct, impede, or even prevent the exercise of their right of initiative and referendum, and, therefore, by the people of the right of initiative and referendum, and, therefore, at the proper time, I would welcome an amendment to that effect because I feel that it would improve the bill.

SENATOR ENRILE. Mr. President, I would like to call attention of my distinguished Colleague, who is sponsoring this bill, about the disparities of population of various provinces, cities and municipalities in the land...



40

Senator Enrile

... in the land, for instance, in the case of Batanes with a voting population of 7,000, Your Honor would require 500 initial signers for a petition so that Your Honor could exercise this prerogative for the people of Batanes, and yet, for a municipality like Makati with about 300,000 of voting population, Your Honor will only need 100 signatures to initiate it. Was this ever considered in the drafting of this measure, Mr. President?

SENATOR GONZALES. We had adopted a uniform rule for provinces, for cities, and municipalities. We feel that 500 is a fairly substantial number to show that there is already respectable initial support for the proposition.

SENATOR ENRILE. Would it not be better, perhaps, Mr. President, to base the percentage of the number by population rather than by political subdivision, given the fact that there are disparities, great disparities in the population of the provinces, cities and municipalities in the land?

SENATOR GONZALES. I would have no objection to that. What is important to me, Your Honor, is to put the system already in effect as mandated by the Constitution. How we go, the

details that will enter into that, I have an open mind.

I feel that any suggestion from any Member of this Body that would improve and strengthen this bill would at the proper time be welcome.

SENATOR ENRILE. My other question, Mr. President, is this. I notice that there is no recording system provided in this draft bill with respect to propositions approved and propositions disapproved, would my distinguished Colleague from Mandaluyong, perhaps, has an explanation or can explain the reason for this?

SENATOR GONZALES. Because any proposition approved is already in effect, an ordinance or a resolution. Therefore, that is why they are required to be numbered serially, and there must be a recording of the same purely is a clerical or an administrative matter which I thought could be covered by the rules and regulations that may be promulgated by the Secretary of Local Governments.

SENATOR ENRILE. Thank you, Mr. President. I am satisfied with the answers of my distinguished Colleague.

SENATOR GUINGONA. Mr. President.

THE PRESIDENT. Senator Guingona is recognized.

SENATOR GUINGONA. Mr. President.

SENATOR GONZALES. Yes, Your Honor. I am not the President but I am willing to answer any question from the distinguished Senator.

SENATOR GUINGONA. Thank you Mr. President. Thank you, Your Honor.

Under the Constitution, Mr. President, the Local Government's Article X mandates a Local Government Code that should be enacted and this Local Government Code shall provide for a more responsive and accountable local government, and then, there should be instituted a system of decentralization with effective mechanisms of recall, initiative, and referendum, etc., allocating, for example, to the different local government units the powers, the responsibilities, resources, for the qualification and appointment of officials, removable therefrom, etc. Did the distinguished Sponsor of this measure consider having this as a separate piece of legislation, and later on, incorporating the same to the Local Government Code? Or, did he believe that we should first await the spelling out of the decentralization process so that it can jibe with the mandate contained in Section 3?

SENATOR GONZALES. Yes, Your Honor. While there is a mandate for the Congress to enact a local government code, there is equally a more specific mandate to Congress to enact the same as early as possible. Congress shall as early as possible provide for a system of initiative and referendum. I have received a copy of the proposed Local Government Code, Your Honor and I notice that there are some provisions on initiative and referendum. It is not with a sense of pride to say that if this bill is enacted into law it is definitely better than the system of initiative and referendum as provided for in the Local Government Code. Now, whether or not this will later be incorporated as it should be in the proposed Local Government Code which will be submitted later and only Heaven knows when Congress can enact it then that is entirely a different matter.

SENATOR GUINGONA. If the distinguished gentleman says that this is better than the initiative and referendum in the Local Government Code, I certainly believe him, Mr. President. My only concern is that the questions propounded by the distinguished gentleman from Cagayan "Norte" or province, as distinguished from the "Golden" Cagayan from the South -- were questions, if I recall, that border on the powers of the local governments, cities, municipalities or barangays and I was just thinking, Mr. President, that many of these powers would already be spelled out in the decentralization or in the Local Government Code and it would, I imagine, provide the necessity of saying that this can be done, this cannot be done because this

is national or this is local and therefore I was just thinking that although we would have to wait for the Local Government Code, perhaps the powers of the decentralization could already be more or less spelled out.

SENATOR GONZALES. First, as I have said, Your Honor, and I am saying this for the nth time that we are introducing a novel and new system in politics, then we have to adopt first a cautious and we feel that it is prudent and wise at this point in time to limit these powers that may be the subject of initiatives and referendum to those exercisable or within the authority of the local government units. Now, if changes or the powers are expanded correspondingly with decentralization under the Local Government Code, there is really no inconsistency because those enlarged and broadened powers can be <sup>exercised</sup> exercised by the people through the powers of initiative and referendum. So in reality there is no inconsistency between these two measures. . .

SENATOR GONZALES. Your Honor please, may we ask the gentleman whether, for example, in Marawi where the power of the Maria Cristina generating ...

SENATE ARCHIVES (LRPS)

SENATOR GUINGONA.

... generating source comes from the local government of Marawi City can enact or make a proposition that 10 per cent of the revenues from the power generated be given as beneficiaries to the source of the Maria Cristina falls?

SENATOR GONZALES. I feel that under our present set-up, that is now the subject of a national legislation and, therefore, absent any express grant of that power to the local government units, the same cannot be done by the people through initiative and referendum but the people can nonetheless, voice out through a resolution in the former proposition recommending or urging that particular measure to the national government. And probably here in Congress, we can consider a law of such a magnitude and such a scope but I would rather have a specific law or a specific bill on that measure to appreciate the feelings of the people who are residing in the places which constitute the source of indigenous energy and yet, sometimes they are required to pay a rate higher than those in other places. But I think, that ought to be the subject of a separate legislation.

SENATOR GUINGONA. Because, if Your Honor please, the Constitution itself provides that local governments shall be entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas.

46

SENATOR GONZALES. But then the determination of what is that equitable share will still have to be determined by legislation and, therefore, if a legislation to that effect is enacted and that power is now given to the local governments, all right, then the people through initiative and referendum can implement it.

SENATOR GUINGONA. But, Mr. President, since this is already a constitutional mandate and we recognize decentralization, we recognize the power of the local governments to also implement the constitutional mandate, it does not say by law nationally, it can be law locally, then perhaps, the citizens within the regions may invoke this constitutional provision.

SENATOR GONZALES. But, I think, this is a matter of national concern and ought to be subject of a national legislation first. But because if we go to the logic of that proposition, then the people in an area may say that "we will pay only 1 per cent". Naturally, they will always have to exempt themselves from the payment of any energy the source of which is indigenous to them. That is the difficulty here, absent any national legislation that would at least define the guidelines.

SENATOR GUINGONA. That is why, Your Honor please, we were concerned that, perhaps, it would have been better if we have the powers of the local governments defined in a decentralization.

SENATOR GONZALES. Well, that can be done, Your Honor. There is nothing

47

for the Congress to do it. But what I am saying is that probably that ought to be the subject of a separate legislation but it should never be a bar to the authority of this Congress to implement the constitutional mandate for Congress to provide as early as possible a system of initiative and referendum.

SENATOR GUINGONA. Pending the enactment of a decentralization bill, would the distinguished Gentlemen say that the proposed measure, if adopted, can be implemented?

SENATOR GONZALES. Yes, Your Honor. There is nothing why it cannot be implemented as soon as it is approved, and I can't see any reason why we should wait for the enactment of a local government code.

SENATOR GUINGONA. Is the Gentleman saying that ...



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SENATOR GUINGONA

... Is the Gentleman saying that the residual powers of the Government is lodged in the National Government?

SENATOR GONZALES. No, what I am saying is that... Again, I do not want to go into that kind of debate because then we will have to adopt certain theories, whether local governments are governments of limited powers or whether they have certain inherent powers, and I think, for purposes of this Bill, a debate on that matter will not serve any purpose.

SENATOR GUINGONA. We are getting clarifications, Mr. President, because there may be substantial difficulties in knowing what can be initiated and what can be subject of referendum unless we know the parameters.

SENATOR GONZALES. I think the parameters had already been defined. Time and again I said: The powers that may be exercised under the law by local government units are those which can be exercised by the people through the power of initiative and referendum, whatever those powers are, Your Honor.

SENATOR GUINGONA. May we go to specifics, Mr. President, on Section 3, letter c, line 26. May we know how the verification of the signatures on the basis of the registry list

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11:35 a.m.

of voters will be made?

SENATOR GONZALES. Well, if necessary, they can resort to fingerprint examinations; they can make house checks or personal checks. These are matters of details which can be taken care of by the Rules and Regulations to be issued by the Commission on Elections and the Department of Local Government, Your Honor.

SENATOR GUNGONA. Would the Distinguished Gentleman consider a shorter period than three years for a proposition that is approved not to be repealed?

SENATOR GONZALES. Your Honor, there is really no prohibition against repeal or amendment within the three-year period. What we are merely saying is that within the three-year period, it cannot be amended or modified except by a qualified majority of two-thirds vote of all the members. And I am thinking that we use three years not arbitrarily, but we use three years because that is the term of office of a local legislative body. So what we are afraid is: Here's a group of 500 people urging the local sanggunian to adopt an ordinance, and the same is not acted upon by the local legislative body for whatever reason. And so the people had resorted to the initiative and referendum. And it was approved therein. Unless we provide for a period

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9/11/87

11:35 a.m.

like this, the same local legislative body now whose opinion or is the adverse can really defeat the will of the voters as expressed in the referendum by immediately repealing the same. That is why we are giving that period of their term.

SENATOR GUINGONA. Can a national law amend the same?

SENATOR GONZALES. Yes. Any ordinance for that matter may even be amended, repealed or modified by a national law.

SENATOR GUINGONA. Even in the autonomous regions, Mr. President?

SENATOR GONZALES. I would say as a general proposition "Yes", because I think axiomatic that local ordinances are always subject to law.

SENATOR GUINGONA. Again, Mr. President, the form of the referendum is open?

SENATOR GONZALES. The same as any election, Your Honor.

SENATOR GUINGONA. Is it subject to "yes" or "no" only?

SENATOR GONZALES. It depends. That is why we have given here a duty we have imposed upon the Secretary of Local Governments the duty of giving assistance to the proponents as to how to formulate the proposition.

SENATOR GUINGONA. Have the examples of the United States more clearly...

SENATOR GUINGONA.

of the United States more clearly explained because we do not like the referendums of the past in our own experience.

SENATOR GONZALES. Yes. What actually happens here is, if it be an ordinance, then there is an ordinance; the substance of the same will now be written on top of the paper on which the signature is to be--I mean the abstract of the same--with a copy always attached; and then probably the voting will be yes or no, with a space for comments. And that is what happened in the various propositions in the State of California.

SENATOR GUINGONA. Will it be questions, for example: Do you like the New Society?

SENATOR GONZALES. Your Honor please, we are trying to put up a new tool of democracy, and let us try to work sincerely for the purpose of...

SENATOR GUINGONA. Precisely.

SENATOR GONZALES. ...strengthening it, and I hope that while that was an experience of the past, that we will not allow it to always be a nightmare to follow us completely and to put us in a state of paralysis, preventing us from putting into motion something that we feel is essentially beneficial.

SENATOR GUINGONA. So it is not limited to just...

SENATOR GONZALES. No, Your Honor.

52

SENATOR GUINGONA. Thank you, Mr. President.

THE PRESIDENT. Senator Laurel is recognized.

SENATOR LAUREL. Mr. President, just a few questions this Representation would like to ask the Senator from Mandaluyong.

SENATOR GONZALES. Gladly from the Gentleman from Batangas.

SENATOR LAUREL. Thank you.

SENATOR GONZALES. I don't know the province of Mrs. Laurel.

SENATOR LAUREL. No domestic problems.

Your Honor, you stated, in the course of your constructive speech, that this bill of yours...

SENATOR GONZALES. And of Senator Romulo and Senator Ziga and, of course, the members of both Committees.

SENATOR LAUREL. Well, all the coauthors, of course--is a new tool of democracy, is that correct?

SENATOR GONZALES. Well, at least here in our political system.

SENATOR LAUREL. For which reason, Your Honor stated that we should approach the problem of granting the different agencies of the local government the power to initiate bills or laws and to approve or disapprove resolutions and acts passed by the local legislative bodies, is that correct?

SENATOR GONZALES. That is correct, Your Honor.

SENATOR LAUREL. And you made that statement because you were considering probably the stage of our culture and not only the stage of our culture, particularly in the provinces, but also the domestic situation obtaining in the different local regions and provinces in the country.

SENATOR GONZALES. Yes. And more than that, we would want to grant to the people the power to be part of any decision of government that would affect them.

SENATOR LAUREL. And also as raised by the Minority Floor Leader-- and I think you stated that you would welcome later amendments to be presented by the distinguished Senator...

SENATOR GONZALES. Not only from the distinguished Minority Floor Leader, but from any other Member of this Body.

SENATOR LAUREL. And from the others, because there seems to be yet a local government code to be passed, which would define and clarify the powers of local governments, is that correct?

SENATOR GONZALES. There is an existing Local Government Code...

SENATOR LAUREL. Yes, to be clarified and probably to be amended.

SENATOR GONZALES. ...and what the Department of Local Government has done is to propose a new Local Government Code, I think copies of which have been furnished the Members of this Body.

SENATOR LAUREL. I see. And that is the reason, Your Honor, why you said also that this is experimental, is that correct?

SENATOR GONZALES. Well, any law, for that matter, is an experiment

SENATE ARCHIVES (LRAS)

SENATOR GONZALES... is an experiment, as much of the new things in time are an experiment.

SENATOR LAUREL. And, as a matter of fact, in the Committee Report on page 2 or the Committee Report No. 7, stated here and I quote:

"even in a highly advanced country like the United States, initiative and referendum have not been attempted on the national level."

SENATOR GONZALES. That is correct, Your Honor.

SENATOR LAUREL. And so much so that there are only, right now, only a number of states in the federal union of the United States which have adopted initiative and referendum as an institution of system of popular government. Is that correct?

SENATOR GONZALES. That is correct, Your Honor, not all American states have adopted it.

SENATOR LAUREL. I see. I would like to ask then, Mr. President, why is it that we are here presenting a bill of national scope and application. Although supposed to be limited to local governments, it is applied - it was intended throughout the entire country.

SENATOR GONZALES. Because, Sir, the political structure of the Philippines is different from the United States. In



the United States they have a federal system. And each system is under the principle of state rights, have their own powers which cannot be interfered with by the federal government. But ours is unitary.

SENATOR LAUREL. But still, Your Honor and Mr. President, that difference between our system of government and that of the United States, would not militant against your own idea that this should be experimental.

SENATOR GONZALES. Experimental in the sense that this is the first time that will have to be adopted. But on the other hand, it is a compliance with the constitutional mandate.

SENATOR LAUREL. That is correct, but still to be approach, Mr. President, with caution. And as an experiment which means that, probably, this is just a suggestion, we should start on a limited more confined basis with this initiative and referendum by confining the bill to a particular area in the entire country. Shall we say: Can we start with Makati? Or, let us say, San Juan, Metro Manila or Quezon City? Metropolitan Manila or no, not particularly, Batangas, at this stage.

SENATOR GONZALES. May I, however, suggest: No. 1, it would be very, very difficult to establish a property for classifying local government units for this purpose of referendum.

And, probably, others who are not granted the same may say, why? Do they not think that we are already educationally, culturally, and politically aware that we are denied this power granted to other municipalities?

No. 2, the fact that we provide for a system of initiative and referendum does not mean that the people will already exercise it. There are so many requirements here in the exercise of the same. But then, let it not be said that we are denying these rights to certain people in our country just because they have not attained a degree of progress or of education or whatever it is, than those attained by their more fortunate countrymen.

SENATOR LAUREL. I understand, Mr. President, the position of the Sponsor of the bill when he stated that, ideally, this bill should be applied nationally.

But since the Distinguished Sponsor of the bill has stated that this is a new tool of democracy, and we do not

know for certain, how it will work.

And, in the light of the conditions and attending factors that encompass the nation, and I referred in the course of my interrogation, Mr. President, to the problem of insurgency, in particular. And there are, I think it is well known, that there are some parts of the country...

SENATE ARCHIVES (CRAS)

59

SENATOR LAUREL.

... parts of the country virtually in the hands of <sup>the</sup> rebels. To enact a law like this and to give the entire country -- all localities -- the power of initiative and referendum, to my mind, is fraught with dangers and possible consequences we would not welcome. In other words, this bill, if applied to certain regions in the control of the rebels, would somehow legitimize their actions and in fact lead to strengthening of their hold in said regions and finally, to the dismemberment of the country.

and  
SENATOR GONZALES. You are carrying too far the reach ~~the~~ possibilities of initiative and referendum because as I said, the powers the people can exercise are those which are limited to the local governments themselves.

SENATOR LAUREL. Yes, Mr. President, but still, I refer again to the provision of the bill that although the local governments, given the power to proceed with some organization or passing certain acts, are limited to those powers given them under the Local Government Code, they may however go beyond that, and in such cases, I think two-thirds vote is required in order to override or repeal whatever acts they might have passed. And then, it will only be once a year.

SENATOR GONZALES. Yes, Your Honor. But then, on the assumption that the proposition is ultra vires, then, it can be declared null and void.

SENATOR LAUREL. But still, that is after the act; it is a fait accompli; it is something that has already been done.

SENATOR GONZALES. But that is inherent in the system.  
I would not want to deny a tool of democracy to any segment of our people,  
Your Honor.

60

SENATOR LAUREL. Well, at any rate, Your Honor, what I was merely suggesting is that if this is admittedly an experiment, why not confine the experiment to a smaller part of the country. As a matter of fact, the difference between that system of the government in the United States and the Philippines is <sup>not</sup> really very relevant because we still have the power to start ~~or~~ to enact a law that would confine the application of this bill to a particular region in view of the fact that this, admittedly, is an experimental motion or program.

SENATOR GONZALES. Your Honor, I have to be convinced of the reasons because it is indeed very, very dangerous for us to withhold a right that is granted to some Filipinos because those who may not exercise the right may feel that they are regarded as second class or as third class citizens in our country for purposes of exercising political rights.

SENATOR LAUREL. That is why we said, Your Honor, that this would be merely an experiment. We just want to find out how it would work and it would take a short while, not more than two years probably. In the meantime, we could enact a new Local Government Code.

SENATOR GONZALES. Your Honor, please, I think I have answered that question already.

SENATOR LAUREL. Thank you, Mr. President.

61

SENATOR MERCADO. Mr. President.

THE PRESIDENT. The Majority Floor Leader.

SENATOR MERCADO. Could I ask a few questions to the Sponsor of the bill?

SENATOR GONZALES. I thought the Majority Floor Leader have risen to ask for the suspension of the consideration of this until Monday.

But willingly, Your Honor.

SENATOR MERCADO. Considering that we are already at lunch time, I shall make myself very, very brief.

SENATOR GONZALES. Thank you, Your Honor.

SENATOR MERCADO. I am in agreement with this bill that you are proposing, Mr. President, in compliance with the constitutional provision for us to provide a system by which the people will have a voice other than the legislators that they elected. While reading your bill, however, and listening to your explanation where you said that it was for the nth time that you were mentioning ...

62

SENATOR MERCADO.

mentioning that this is new; it is a novelty and it is experimental.

And that you have to proceed cautiously. However, in Section 13 of...

SENATOR GONZALES. There is no Section 13, Your Honor.

SENATOR MERCADO. No, no. I am sorry, in Section 3 rather. My eyes are <sup>just</sup> failing me.

SENATOR <sup>GONZALES</sup> MERCADO. You are too young for the... (Laughter.) <sup>MERCADO.</sup> You speak of the use of such power and initiative and referendum to be limited to once a year.

SENATOR GONZALES. Yes, Your Honor. That is line 30 and 31, on page 3.

SENATOR MERCADO. I agree with your caveat that this is experimental and cannot be used as often as may be necessary because of the nature of this experiment. However, I am bothered by the fact that the initiatives cannot be programmed; the needs of the people cannot be expected. And that if, let us say, they have instituted a referendum or an initiative, an action as regards to a particular question which they felt was of primordial importance and later on events proved that there is still something that is of greater importance, they shall be limited in exercising the same right by this particular provision which bans them from utilizing the initiative more than once a year.

SENATOR GONZALES. Your Honor, in most of the States, where they have systems of initiative and referendum, <sup>they</sup> take place only once every two years. Because they always hold their referendum simultaneously with an election. The idea is really to save expenses, and since most of the elections there take place only at intervals of two years. That is how.

63

This one year is oftener than what is usually done. But as I have said,  
more  
I have an open mind about this. What is/important to me is to institute  
the system.

SENATOR MERCADO. I agree because the United States is a politically-  
stable nation. In our country, we are going through a political changes  
that are so swift and, sometimes, they even challenge the very existence of  
our Republic in a democratic system. There might be such instances where  
we have to utilize such initiative and we might be estopped by this  
particular provision. Would you be open to suggestions in the period of  
amendments, where we might allow such things to transpire more than once a  
year as long as there would be a greater number of people of voters who  
would be required to spell the initiative?

SENATOR GONZALES. When the period of amendments come, I will  
be very happy to listen to that amendment, Your Honor.

SENATOR MERCADO. Thank you very much. That was the only point I wanted  
to raise, Mr. President.

SUSPENSION OF THE SESSION

THE PRESIDENT. Session is suspended for a few minutes.

It was 12:03 mn



## RESUMPTION OF THE SESSION

64

At 12:06 p.m., the session was resumed with the Honorable Jovito R. Salonga, President of the Senate, presiding.

THE PRESIDENT. Session is resumed.

SENATOR MERCADO. Mr. President, I move that as regards Senate Bill No. 97 which is "AN ACT CREATING THE MINDANAO DEVELOPMENT CORPORATION AND ABOLISHING THE SOUTHERN PHILIPPINE DEVELOPMENT ADMINISTRATION DESCRIBING ITS POWERS, FUNCTIONS AND DUTIES AUTHORIZING THE APPROPRIATIONS OF FUNDS THEREFOR AND FOR OTHER PURPOSES" that aside from the main author, Senator Tamano that we add the names of Senator Santanina Rasul and Senator Aquilino Pimentel, Jr., as co-authors.

THE PRESIDENT. Is there any objection? (Silence)  
Hearing none, the same is approved.

SENATOR MERCADO. Mr. President, I move that we suspend consideration of Senate Bill No. 17 for Monday.

THE PRESIDENT. Is there any objection? (Silence)  
Hearing none, the same is approved.

SENATOR MERCADO. As regards, on Committee on Local Governments, Mr. President, I move that we include Senator Jose D. Lina, Jr. as a Member of the said Committee at the instance of the Chairman, Senator Pimentel.

THE PRESIDENT. Is there any objection? (Silence)  
Hearing none, the same is approved.

ADJOURNMENT OF THE SESSION

MR. WARDENBERG. Mr. President, I move that we adjourn the session until Monday, four o'clock in the afternoon.

THE PRESIDENT. Is there any objection? (Silence)

Session is adjourned until Monday, four o'clock in the afternoon.

It was 12:03 p.m.

SENATE ARCHIVES (CRAS)