

## Transcription details

**Date:** May 31, 2021

**Plenary Session No.** 66

**Timestamp:** 3:50:51- 5:14:12 (FB Video: [https://fb.watch/5Qg\\_XFoUld/](https://fb.watch/5Qg_XFoUld/))

**Note:** Draft version, for corrections please email us at [mail@rasmitmug.com](mailto:mail@rasmitmug.com).

Sen. Migz Zubiri: Mr. President, I move to resume consideration of Senate Bill No. 2214.

Sen. Vicente Sotto III: Any objection? Hearing none. Consideration of 2214 is in order.

Sen. Zubiri: This is the act resetting the BARMM elections. May we recognize the sponsor, Senator Francis “Tol” Tolentino and to interpellate, our distinguished minority floor leader, Senator Franklin M. Drilon.

Sen. Sotto: Senator Francis Tolentino is recognized, the sponsor of the measure, and to interpellate is the minority leader, Senator Drilon.

Sen. Frank Drilon: Thank you Mr. President. Will the good sponsor yield the floor for a few questions on the postponement of the election?

Sen. Francis Tolentino: Yes, Mr. President. But will the good minority leader allow this representation to make a short manifestation as part of the records, Mr. President?

Sen. Drilon: Certainly, yes. Yes.

Sen. Tolentino: Mr. President, the last several days, I’ve been reading all the previous laws, interpellations made, the subject bill, the other proposals. It would appear, Mr. President— and I would like to place this on the records— whatever this representation would do, tends to do, and decipher, it would appear, Mr. President, we have reached a stage where it is really impossible for us right now as I speak, to arrive at a conclusion wherein legislation would result in an election, Mr. President.

Let me state three pathways, Mr. President, just for the record. One, if Congress, the Senate will not act definitely there is not going to be an election. Number 2, If Senate, if Congress will disapprove this measure, the endgame, Mr. President, is again no elections on May 2022. Thirdly, Mr. President, if we approve this measure, the result would be no elections, again, but with certainty as to when the next elections would be. And the three pathways that I mentioned, Mr. President, is premised on the following:

One, the first regular elections for the Bangsamoro government should be conducted pursuant to the Bangsamoro Electoral Code, which we still don’t have, Mr. President. How can we have an election when there are no rules to apply.

Two, parliamentary districts have yet to be apportioned pursuant to Section 10 Article 7 of the Bangsamoro Organic Law. How can we conduct an election when the districts have yet to be carved out? If I am interested for example Mr. President, in running for the first parliamentary district of Tawi-tawi, there is no existing first parliamentary district of Tawi-tawi. There is no office to aspire for. There is no certificate to candidacy that would be congruent to a vacant parliamentary district. They have yet to identify the parliamentary district, Mr. President, because of the COVID situation, more importantly, the 2020 census has yet to be released, Mr. President. And there is a ruling doctrine here, *Aldabo vs. Comelec* wherein the court held that any population projection forming the basis for the creation of a legislative district must be based on an official and credible source and that is the latest census figures.

Number 3, and this is important, Mr. President, there is no book of voters to speak of that would be reflective of a parliamentary district, which under the law should, at least, must have 100,000 population. So how can we have an election without a book of voters? And some parallel laws like the residency requirement, that you have to be a resident of a district [for] at least one year. And if you intend to transfer, you must be a resident of that district for at least a year. This would not be applicable, Mr. President, because the district is yet to be created, the 80 parliamentary districts. And Mr. President, some sectors texted me 'why don't you just use the congressional districts?' the existing congressional district. We cannot use the existing congressional district, Mr. President, because I think there are only eight congressional districts for the entire Bangsamoro. And we are talking here of 80 parliamentary districts. How can 8 represent, if I'm not mistake, represent the 80. There are some who suggested that we use the former ARMM district law. Mr. President, the same reason would probably apply. Or even with greater depth, Mr. President: the old ARMM law speaks of multi- member districts. A parliamentary district before in Tawi-tawi would have three representatives. A parliamentary district before of Sulu would have three members. For the Bangsamoro, it's a single member district. Some would say, why don't we use an at-large election, meaning to say if you are from Tawi-tawi, you have to campaign the entire breadth of the Bangsamoro region? Mr. President, the rationale, the spirit behind the Bangsamoro Organic Law is to have a representative district that would be congruent with the temper, the culture, the tradition of that district. The representative must be a representative of the people of that district, representing their tradition, their culture, their heritage among others.

So having said all of these, Mr. President, I think in all three pathways, we do not act, *wala pong eleksyon*; we disapprove the measure, *wala rin pong eleksyon*; we approve the measure, *wala rin pong eleksyon*. So *naguguluhan na rin po ako dito*, Mr. President. So the job that we have right now is to lay the foundation for orderliness beyond 2022 to achieve a certain measure of approximation and certainty, to achieve the purposes of the Bangsamoro Organic Law. *Yun lamang po ang gusto kong sabihin*, Mr. President, *dahil medyo gumulo na po at sa kakaaral ko po nito*, we have reached a point of an impossibility. There is a Latin phrase of this: *lex non cojit ad impossibila*. The law does not require the performance of the impossible. It is impossible to conduct an election, Mr. President, sans the presence of the Bangsamoro electoral code, the creation of the required parliamentary district, the carving out of a district which will be

representative— there is a doctrine of equi-population of the people residing in that district and electing a truly responsive, in a representative manner, the person who is ought to represent that district. Yun lamang po, Mr. President. Nagpapasalamat po ako sa ating iginagalang na minority leader at napagbigyan ako na sabihin ito na hindi ko po nasabi nung isang linggo dahil pinag-aralan ko po munang mabuti kung tama ang sasabihin ko. Maraming Salamat po.

Sen. Drilon: Thank you, Mr. President. The sponsor has the floor and therefore had every right to spread his views on the record. We are just asking that we be allowed to have the floor, with the permission of the sponsor. But anyway, having said that, the good sponsor made a statement to which I fully concur with, when he said, 'gumulo na po.' In other words, it has become messy. With the indulgence of the sponsor, Mr. President. May I propose that we make the bill simple? The issues to my mind, Mr. President, are simple.

First issue, should we postpone the election? Mr. President, correct me if I'm wrong, but my reading of our colleagues within the chamber is that everyone would agree to have the elections postponed to achieve the aspirations of peace, security, genuine autonomy, and the development of the BARMM region. It is my submission, Mr. President, that the interest of the BARMM and the country, is best served if we extend the life of the Bangsamoro Transition Authority and we set the next election to 2025. Dahil po sa pandemya, nagkulang po ang oras ng kasalukuyang Bangsamoro Transition Authority na gawin ang kanilang to-do list na binanggit po ng ating butihing sponsor. Dahil po sa pandemya, hindi pa nakukumpleto ang mahalagang bahagi ng ating nilagdaang peace agreement. So would the sponsor agree that the first issue is very simple, shall we postpone the election, and the answer should be yes.

Sen. Tolentino: I agree, Mr. President. Just as I have mentioned, all three pathways would point to the direction of the postponement.

Sen. Drilon: Right. So that is why I said that it's simple. The first issue is should we postpone the election. And apparently, no one in the chamber is saying 'no, we should proceed with the election.' So the first issue is disposed of: we will postpone. Para sa mga kasamahan ko po, wag na tayo mag-alala because we have sufficient legal basis to postpone until the next national elections in 2025. In other words, the second issue is: can congress legislate the postponement of the election? That's the second issue. The answer is yes.

In 2012, the supreme court, upheld the constitutionality of the law, which I authored and defended. It was a law that postponed the regional elections in the ARMM and mandated the synchronization of the region's election with the national and local election. This is Republic Act 10153. And as the good sponsor is fully familiar, the case Abas Kida vs. The Senate of the Philippines recognized the power of congress and the authority of congress to extend and postpone the elections in the autonomous region. In fact, my count is that, Mr. President, there are no less than seven laws over the years which postponed the elections. Therefore, it is clear that we, the Congress, is authorized to postpone the elections and has in fact has postponed it seven times in the past. Would the good sponsor agree with that?

Sen. Tolentino: Yes, that's a correct foundation for the postponement and I agree, Mr. President.

Sen. Drilon: Thank you very much, Mr. Sponsor. Third, third simple issue: do we need a plebiscite to postpone the election? In our view, there is no need for a plebiscite. The constitution does not require a plebiscite to be had for all amendments to the organic law. It only requires plebiscites on amendments or revisions which are constitutionally essential to the creation of the autonomous regions. And the date of the first regular election does not fall under this category. Clearly, Mr. President, in my view there is no need to conduct a plebiscite in order to make the law that will postpone the elections to 2025 effective. Would the good sponsor agree with that?

Sen. Tolentino: Mr. President, I agree but I hasten to add one thing that probably was left out during the previous interpellations. Mr. President, I agree with the minority leader. There is no need for a plebiscite to postpone the elections. On the contrary, Mr. President, if we conduct an election, 2022, there might be a need for a plebiscite. That is my theory now, Mr. President. Why? Because we will be affecting structurally the Bangsamoro Organic Law in terms of the absence of the Bangsamoro electoral code, in terms of the absence of the parliamentary district, you cannot conduct an election. And this is the reverse view, the flipside, of what the good minority leader mentioned a while ago: if you conduct an elections, there might be a need for a plebiscite because we will be obviating all the structural foundations mentioned by that Kida case. But as to the postponement, there is no need Mr. President. If we conduct an election, there might be a need for a plebiscite because they still don't have the Bangsamoro Electoral Code, Mr. President.

Sen. Drilon: Mr. President, I would rather not get into a very complicated discussion. The issue is simple, do we need a plebiscite to postpone the election? The answer is no, we don't need a plebiscite. That is the problem, keep it simple.

Now, the reason in my mind why this has become complicated is what appears to be an amendment to section 2 of article 16 of the BARMM law. And in my view, do we need to amend section 2 of article 16 of the BARMM law? The answer is no. And again, this makes our tasks simpler. Because the proposed section is totally unnecessary. Mr. President, yesterday I was jolted with what I read in the news: hundreds of men and women in Basilan marched on the streets to protest the alleged attempt in the Senate the MNLF in the Bangsamoro Transition Authority. Chair Muslimin Sema issued a warning, that is worrisome, that the proposed measure, if passed in its form that we have it today, will have harmful effects on the whole peace process. And I read this to be a threat to abrogate all MNLF signed agreements with the government and the effect on the peace process can have a lot of meaning including the hostilities. And that is why Senator Zubiri, our majority leader, raised the fears of Christians being bumped off from the Bangsamoro Transition Authority.

Mr. President, article 16 section 2 of the BARMM law, expressly and explicitly provides for the composition of the BTA. Sa akin po, ito lang po ang pakiusap ko sa sponsor at sa aking mga

kasamahan, wag na po nating baguhin ito. Talagang magkakagulo po dahil ang nakasulat dito at sa panukalang batas. Uulitin ko po, ito po ang masalimuot, kapag pinalitan natin, sa aking tingin, pag inamenyandahan natin ang article 16 section 2 of the organic act of the BARMM law, yan po ay magiging dahilan ng feeling na bakit gusto nating palitan ang composition ng BTA when the Bangsamoro Organic Law explicitly mentions the participation of MNLF, of non-Moro indigenous communities, youth, women, settler communities, traditional leaders, and other sectors. Nawala na po ito sa Senate Bill 2214 kaya po medyo kinabahan ang ating mga kapatid sa BARMM. And with all due respect to the sponsor, we cannot simply reason that the non-mention of membership in the BTA would not be equated to a repeal. That was the statement of the good sponsor last time, he says the non-mention of these different groups would not be equated to a repeal and that quote implied repeal is not favored by law. To the good sponsor, may I propose that though the sponsor has no intention of repealing the provisions of the organic act, the proposed measure can really cause anxiety and panic when there should be none. Because it is not our intention to change the composition of the Bangsamoro Transition Authority. So that when the president appoints, under the proposal, new members, he should follow as a limitation the composition of the Bangsamoro Transition Authority because our friends from the BARMM cannot be comforted by some vague statutory construction doctrines that implied repeal is disfavored, et cetera.

Mr. President, let me place on record that the BARMM law and the BOL is one of the most difficult laws that this chamber enacted in the recent years. Mahirap po ang pinagdaanan ng batas na ito. Dugo at pawis, if I may say. Hirap na hirap si Senator Zubiri, who led the senate in passing this measure. Mahirap po pagkasunduin ang iba't-ibang panig but with the leadership of Senator Zubiri, we were able to make everybody come to an agreement. And section 2 is one of the most contentious issue that was resolved.

I reiterate my appeal. Let us therefore maintain the proportional representation as provided by the present organic law. Otherwise, we run the risk of holding back the gains of Bangsamoro peace process. In my humble submission, section 2 of the bill will only provoke further division rather than unity. As they say, Mr. President, if it ain't broken, why fix it? I therefore agree and support the manifestation of Senator Zubiri that we maintain the present composition of the Bangsamoro Transition Authority by deleting section 2 of the bill. Mr. President, my humble submission is that we have to expedite the passage of this bill to provide stability in the region. We cannot bungle and mess up what is otherwise a simple postponement of the BARMM election. Let us not complicate things. Let us leave section 2 of the BARMM law in place. That is my respectful submission to the good sponsor.

Sen. Tolentino: Thank you, Mr. President. I totally agree that the submitted version of section 2 would require several amendments. But Mr. President, during the... I agree, but allow this representation to place this on record. I have a copy of my good friend's letter with me, Muslimin Sema, who was a mayor, when I was also a mayor of Tagaytay, he was also a mayor of Cotabato City. I think the son was here last week. I gave Senator Zubiri, the majority leader, the cleansed version of section 2, which I'd like to place on record. For record purposes, Mr. President, the spirit and the intent will probably obviate the fake news that sprouted last week,

especially as regards the settler community. And if the good sponsor would allow, I'd just quote the cleansed version which I shared with several senators here present in this plenary.

I quote right now, section 2, "during the extension period, the Bangsamoro Transition Authority (BTA), led by the Moro Islamic Liberation Front and without prejudice to the participation of the Moro National Liberation Front in its membership, shall continue the interim government in the Bangsamoro Region in the Muslim Mindanao (BARMM). Provided that the BTA shall prioritize its mandated duties under section 4, paragraph A, of article 16 of RA 104. This is off the record, to have them prioritize the other codes, including the Bangsamoro Electoral Code. Provided further that the president shall appoint 80 interim members of the BTA, which shall be composed of the following (and this is the contentious part): 41 members shall be nominated by the Moro Islamic Liberation Front, from whom the chief minister shall be appointed. 6 members nominated by the Moro National Liberation Front, 21 members from the BARMM local government units, namely 2 from Basilan, 5 from Lanao del Sur, 4 from Maguindanao, 2 from Tawi-tawi, 4 from Sulu, 1 member each nominated from Marawi City, Cotabato City, Lamitan City, and the BARMM barangays in North Cotabato. 2 members each nominated by the non-Moro indigenous people, 2 members for the settler communities, one member each for women, youth, traditional leaders, and Ulama, consistent with section 7, paragraph C, of article 7 of RA 11054. Provided finally that all appointed members, appointed BTA interim members shall hold office until the duly officials of the May 2025 elections shall have qualified and assumed office, unquote.

Mr. President, the purpose here, in the provisions in section 2... and I agree with the minority leader, came from various consultations. Volunteered by the current leadership of MILF, came from the suggestions of the governors, the incumbent congressmen, among others, in several consultations. This incorporated, reincorporated the contents of the existing law. What we said last week, and I reiterate today: the purpose is this, we prevent the jockeying for positions once the vacancy occurs. But in line with the spirit, the mandate of the existing law. But it is complicated because we now lay down the terms of representation, equal numbers, almost geographical representation for the BTA, including all the 8 reserved seats. So, there was no bad intention here. What we lay down here was to pave the way for a more certain, representative, inclusive BTA, Mr. President, sans the politics of it. Although none can really prevent the political jockeying for positions but we made it a very inclusive parliament, including, Mr. President, the very hard to attain representation coming from the 63 barangays of North Cotabato. Because this really gave me severe headaches. The barangays are scattered as if there are several islands. There is no contiguousness, compactness in so far as the 63 barangays of North Cotabato. So there was no element, no intent here to delete a certain group, to deviate from the provisions of the existing organic act. I hope I can give the good minority leader a copy of this, probably through email, as well as other colleagues. This would have been a good subject for the amendments period. But, again, this would be representative of what the ideal BTA should be. This should be representative of the inclusiveness that came from the words of the MILF leadership, as well as some of the LGU heads present during our private consultations. And the good majority leader can attest to this, he was present during our consultation meeting in Davao, Mr. President. But if the suggestion of the good minority

leader is to expedite all of this during the amendment process, to do away with section 2 to make it simple by retaining just the resetting provision of section 1, then perhaps another provision as to the holdover during the interregnum after the elections, I see no reason why that could not be attained for simplicity purposes, Mr. President. I just mentioned this because this would have been the cleansed version, Mr President. Thank you for listening.

Sen. Drilon: Thank you, Mr. President. Therefore, at the appropriate time, we could amend the proposed measure so that we will retain the original section 2 of the BARMM law as there is no intention to change the composition. Because I tell you, this is not a perfect representation but given the situation, this the best that we could draw after so much difficulty when we crafted this law. Kaya po, the way I understand it and I wish a confirmation from the good sponsor, that we can retain section 2 of the original law. Not touch it all, to make it simple. Except, probably, for the holdover provision.

Sen. Tolentino: I agree, Mr. President.

Sen. Drilon: Thank you.

Sen. Tolentino: The more simple the product is, it would be much better. Again, the holdover provisions should be crafted in such a manner that it would avoid the impression of unconstitutionality perhaps. And to make it more concise, Mr. President.

Sen. Drilon: So that we just let the original section 2 of the organic law stand and then we add a provision on the holdover capacity of the incumbent officials or the appointment by the president of the new members following the proportional representation. So with that I think we can have this law passed within the next two days. I'm glad that the good sponsor has agreed that we can make it simple.

There's only one other item that I would want to take up and this is on the matter, can I have a one minute suspension?

Sen. Sotto: Suspended.

Sen. Drilon: Mr. President, section three of the proposed measure calls for the creation of a joint congressional oversight committee. And let me read the provision 'notwithstanding section 3 article 6 of Republic Act No. 11054, a joint congressional oversight committee is hereby created to aid the Bangsamoro Transition Authority in the performance of its functions and priorities. Section 3 Article 6 of Republic Act No. 11054 is the creation of a Philippine Congress-Bangsamoro Parliamentary Forum for purposes of cooperation and coordination of legislative initiatives.' Is that a correct statement of Section 3, Article 6 of the Bangsamoro Organic Law?

Sen. Tolentino: Correct, Mr. President.

Sen. Drilon: Now, Mr. President, what is the difference between the oversight committee and the Philippine Congress-Bangsamoro Parliamentary Forum? It would appear to me that they are exactly the same.

Sen. Tolentino: Mr. President, as I mentioned a while ago, this representation produced a cleansed version and I replaced several words there which probably be different from what the original bill, which the good minority leader is holding right now. So instead of 'aid' we replaced it, we will be proposing to replace the word 'aid' with collaborate with. So, Mr. President, the difference here is this: it would appear that in section 3, that the Philippine Congress-Bangsamoro Parliament Forum would have two legislative bodies on equal standing discussing measures that would be beneficial to the Bangsamoro Region. Mr. President, that has been my dilemma ever since. I have yet to see a record or a piece of paper pointing to the creation of a Philippine Congress- Bangsamoro Parliament Forum. Otherwise, Mr. President, we should have avoided this impasse of several mandated codes not being passed. Of course, there is the COVID-19 pandemic reason, which I believe is very valid, especially when it comes to the redistricting of the parliamentary districts because they cannot produce the code because they don't have the census, among others. But Mr. President, there has to be a continuing cooperation and dialog. Alam nyo, Mr. President, ito di ko dapat sabihin, sinabi ko lang kay majority floor leader, ang hirap palang tawagan minsan yung ibang ministers, may itatanong lang ako. Si Minister ng DILG, limang araw ko na pong tinatawagan, may itatanong lang akong isag sentence, ngayon ko lang nakita, nandito po sa likuran ko, Mr. President. Kaya mawalang galang na, kaya ko po nilagay ito na magkaroon ng isang oversight, Mr. President, ay para naman sa ganun po, maassitehan sila ng mabilis dahil napakahirap po Mr. President gawin yung internal revenue code. We need tax experts and I agree, I was even surprised, there is a tax office here within our premises here in the Philippine Senate, which can assist them. Electoral code, we can assist them. Para mapabilis lang po, yun lang po ang purpose nito. But if the good minority leader would want to have this amended and just retain the provision of section 3 as embodied in the Bangsamoro law, there's no problem with me, Mr. President. Kaya ko lang po nilagay ito, Mr. President, kaya lang po nandito ito, para mapabilis. So we can be more productive, but of course there is this pandemic, in terms of enacting legislative measures, we can advise the BARMM on what to do. Collaborate is the word, Mr. President, not aid. Collaborate with the BARMM. We want to assist them during this infancy period of the Bangsamoro Parliament. We want to aid them expedite the measures needed to comply with the Bangsamoro Organic Law. Mind you, Mr. President, the operative word is that there is no sovereignty assisting another sovereignty. We work as one. So this is the purpose.

Sen. Drilon: Mr. President, may I suggest that we retain the existing structure and maybe tweak the provision so we can achieve what is perceived by the good sponsor to be shortcomings. Because to me, in my humble view, better way of doing it so there's only one body. Because the BARMM, Mr. President, is not an ordinary local government. This is an autonomous region provided for in the constitution and therefore we must exercise extra care so that we may not run afoul with the very concept of autonomy that envelopes the autonomous region. So we take the word of the good sponsor, there should be better collaboration, I can fully understand that. It was very difficult when we were crafting this law when we had to divide the powers of



the national government and the powers of the autonomous region. Ang hirap po. We sat down long hours in order to make sure that there is a clear division of power between the national government and the BARMM. So I am glad that the good sponsor has expressed his readiness to just maintain the present structure of the Philippine Congress and the BARMM assembly but yes, we must probably strengthen the provision so that there can be better collaboration but conscious of the fact that we should not run afoul with the concept of autonomy as defined in the constitution. So with that, I terminate my interpellation and given the agreements that we had with the good sponsor, I think it will be easy to propose amendments along the lines of our agreements in this period of interpellation, that the good sponsor graciously yielded the floor. So thank you, Mr. President. Thank you, Mr. Sponsor. We no longer have questions.

Sen. Tolentino: Thank you Mr. President, we just hope we can craft a really acceptable provision on the holdover capacity. That would be another contentious provision, Mr. President. If I can add one line, Mr. President. The holdover provision here under the law will be triggered by an election and considering there would be no election— it's just a matter of legal drafting, Mr. President.

Sen. Drilon: Yes. Precisely, Mr. President. Because there would be no election after their terms of office expire then there is a need for a hold over. That's what we're saying. We can take that up in more detail when we propose the amendments but at this point, as I said, I think that unless there are changes in the views expressed by the sponsor in the course of the interpellation, I don't see any difficulty in proposing the amendments and having this bill passed on second reading immediately within the next 48 hours.

Sen. Tolentino: Thank you, Mr. President. Thank you, Mr. Minority Leader.

Sen. Zubiri: Thank you very much Mr. President. Before I call the next interpellator, I would like to thank our distinguished minority floor leader for the kind words that he said about this representation. But actually, it was really a shared responsibility. I have to put also on record that the minority floor leader did a yeoman's job in helping us out. It was a bipartisan move. I recalled he handled the sections on justice, the sections on the Sharia courts, and many other sections. I think three articles.

Sen. Drilon: The most difficult was the section dividing the powers of the national government and the autonomous region— what functions and what powers fall within the national government, what powers fall within the autonomous region because then we were scared that it would lead to cessation.

Sen. Zubiri: Yes. And unconstitutionality. If you can clearly remember, distinguished minority floor leader, we were worried about constitutionality. And not to mention, Senator Koko who was the author of the measure and he was the senate president at the time, who shepherd it also with us. Without the leadership of the senate president and the members of the chamber, talagang nahirapan tayo. So shared responsibility. Everybody pitched in to help, Mr. President.

Including Senator Joel, Senator Risa, Senator Sonny, Senator Sherwin, our senate president, Senator Sotto. Because when he needed the numbers, he was the senate majority leader at that time, and when we needed the numbers, he really made sure that the numbers were given. And tama po yung sinabi ni Senator Frank: this was blood, sweat, and tears. We must have shed a lot of tears in plenary and I made unnecessary enemies. People who I considered like family, now do not talk to me in certain areas. Certain politicians that have been our friends since my dad's younger years no longer speak to me because of the decisions we had to make, Mr. President. That was a very difficult law. [Unintelligible]. We can see the dividence now. If it wasn't for the pandemic, and the guns falling silent in these areas, we were looking at double digit growth rates, Mr. President. We would have overtaken the number of regions in the north in Visayas and Luzon. So this was a concerted effort of the members of the 78<sup>th</sup> congress.

Mr. President, I believe Senator Angara would like to be recognized.

Sen. Sotto: Sen. Sonny Angara is recognized. [4:37:54]

Sen. Sonny Angara: Thank you Mr. President, Majority Leader. I laud the gentlemen for the debates and pushing forward this bill and it would be appropriate if we could really move it forward on this day because I'd like to share with the body, my staff told me that on this day, three years ago, that we passed on third reading the BOL, Mr. President.

Sen. Zubiri: Happy anniversary! I didn't know.

Sen. Angara: Congrats to our majority leader and our minority leader, and of course our senate president.

Sen. Zubiri: Congrats to us. It was really historical. And it was the first time that the whole plenary shouted in delight, happiness, tears of joy. Memorable, memorable occasion. So yes, Mr. President, if we can today, it would be the best... if we just talk to... we have about two more interpellators, one of them is our distinguished colleague from Cagayan de Oro. May we recognize now, Senator Koko Pimentel, Mr. President.

Sen. Sotto: Senator Koko Pimentel is recognized.

Sen. Koko Pimentel: Thank you. With the permission of the sponsor, I would like to resume my interpellation.

Sen. Tolentino: Willingly, Mr. President.

Sen. Koko: Thank you. I have hear the willingness of the sponsor to simplify the bill because if the bill is simplified, then the interpellation will also be simplified and the gears will be shifted and it will take a new direction. So, how simple a bill is the sponsor willing to accept, Mr. President?

Sen. Tolentino: The simplicity should be able to withstand events within 2022.

Sen. Koko: So, looking at the committee report. Section 1 will have to be retained because that is actually the resetting of the scheduled election. Section 2, although read out a so-called cleansed version, that would not be pursued, to my understanding, Mr. President? We will stick to the simple description of the composition of BTA mentioned in section 2, article 16 of the existing law? Is that the agreement, Mr. President.

Sen. Tolentino: More or less, Mr. President. Section 2 can be deleted as proposed by the good minority leader during the period of amendments.

Sen. Koko: Yes. Because as far as we know, Mr. President, were there objections to the wording of section 2 article 16 when it was drafted and also during the plebiscite? Wala naman yata.

Sen. Drilon: Excuse me, majority leader. With your permission, Mr. Chair. I think the majority leader can answer that what is causing the tension and the confusion today, Mr President.

Sen. Zubiri: Yes. If I may... with the good sponsor, just to assist the good sponsor. There's usually an attempt. When we had the negotiations for the extension, initially when we met in Davao with several of the local government officials, their request sana that masama din yung representation ng kanilang mga probinsya. Initially, we said let Malacanang decide. Malacanang naman magaappoint po niyan, Mr. President. There are 39 seats that Malacanang will appoint and they will choose from the 39 seats because 41 will go to the MILF under the BTA, 39 seats will be the settler communities, Christian communities, an equal representation of all the island aggrupation of the BARMM- they have the island provinces and the mainland provinces. So that's where it started from, Mr. President and my distinguished kababayan, Senator Koko. Bu the course of the discussions and the filing of the proposed committee report, that is where a lot of people wanted to lobby for additional positions, et cetera, et cetera, and that's where the controversy had come from. Because I believe in the initial bill that was filed, wala yata yung mention of the settler communities. It was not omitted because the sponsor wanted to omit it but it was, I think the sponsor had forgotten to include that provision. And that is why I go with the position of the distinguished minority floor leader to just simplify it and go back to the original intent of the BOL under section 2, article 16 of the law. And if you quote that, we can quote that pursuant to section 2 of article 16, nandyan na po lahat yan. It's all there of the BOL and then we will have no problems, Mr. President. Thank you, Sir.

Sen. Koko: Thank you. Does the sponsor share the conclusion or the sentiment of the majority leader?

Sen. Tolentino: I've been talking almost daily with the majority leader and he shares my burden likewise, Mr. President, so I concur.

Sen. Koko: Okay. All these requests can be accommodated based on the wording of the existing law article 16. It all depends on the exercise of the appointing power— how it is exercised. And

the question is, during the first round of the appointment the BTA members, where the president exercised his appointing power, were there also complaints of lack of representation? Sen. Tolentino: I am not familiar with the repercussions of the executive acts made then. You cannot simply please everybody. There might be some gripes but it's part of governance, Mr. President.

Sen. Koko: Yes. More or less it can be done and it has been done. So I think we can safely use the wording of the existing law. So that simplifies actually my interpellation. How about section 3 of the committee report, Mr. President? Is this also going to be deleted?

Sen. Tolentino: I think Mr. President we tackled that during our previous engagement with the minority leader. It's effect on the Bangsamoro Congress Parliamentary Forum. My answer is yes.

Sen. Koko: Ah, it's part of the simplification? It will no longer be retained? Okay, the bill becomes very simple then. It's the resetting of the election. The question now is if the election is reset to the second Monday of three years later, what happens to the incumbent, the members of the BTA now? Does the BTA during the extension period need new appointments? The BTA members, Mr. President?

Sen. Tolentino: Mr. President, if I can remember still all the readings that I made during the last few days, Mr. President. I think there is going to be a need for new appointments to be issued because while the existing Bangsamoro law speaks of an expiration of the terms of those presently occupying office after an election, and an election of a chief minister, the law is silent as to the term of office of the existing BTA members without an election being conducted this coming May 2022. But following the spirit of several cases decided by the supreme court, it would appear, Mr. President, that there is a need for a new appointment to be issued because all the terms of office of local government would expire on June 30, 2022 and if we consider the autonomous region as a local government, they are under the section of local government of the constitution of the Philippines, then there is a need for the issuance of a new appointment coming from the president but there would be a lot of sub-questions to be answered, to be raised like for instance: can an incumbent office holder succeed himself if his term expires on June 30, 2022? Is there a difference between term and tenure, Mr. President? Similar to the issues raised days ago. All these Mr. President are answered in the affirmative, Mr. President. I posit the proposition that the president will have to appoint a new set of BTA members to compose the BTA parliament and for them to select amongst themselves the new chief minister and that new chief minister will appoint the cabinet members, Mr. President.

Sen. Koko: Thank you for that input, Mr. President. Is it clear that the incumbent BTA members will and can serve in their post, up to 12 noon of June 30 of 2022? Is that the answer of the sponsor?

Sen. Tolentino: Until June 30 of 2022? Definitely, Mr. President. Unless they are replaced.

Sen. Koko: 12 noon of June 30, 2022? Okay. After that date and time and that there are no appointees yet to the extended BTA, the incumbent BTA members do not hold over until their successors are appointed and qualified?

Sen. Tolentino: Mr. President, following the doctrine of *Licaros vs. Sandiganbayan*, GR 130872 March 25, 1999, in order to prevent a hiatus in the performance of government function, and we're talking of the BTA, hold over is allowed, Mr. President, unless it is prohibited, unless it is proscribed by the Bangsamoro Organic Law. So come June 30, 2022, when new appointments have yet to be issued they're supposed to be there. They're supposed to man their fort. Otherwise, they might be violating a provision in the revised penal code wherein they have in effect abandoned their office, their forts, Mr. President. So absence unexpressed or implied constitutional or statutory provision to the contrary, an officer, a BTA member is entitled to stay in office until his successor is appointed and chosen and has qualified, Mr. President.

Sen. Koko: Thank you for that, Mr. Sponsor. I agree with that policy. And I'm assuming that in the proper time, wording to that effect would be accepted as an amendment. Just to make it very clear, Mr. President, so that there is only one interpretation that the incumbent BTA members, after the expiration of their term will be allowed to stay in office, to remain in office until their successors are appointed and qualified.

Sen. Tolentino: Correct, Mr. President.

Sen. Koko: Okay. So I think that simplifies everything, Mr. President. Because we have simplified the bill, we addressed the meat of the bill. We reset election three years, down the road, we have determined the expiration date of the incumbent BTA members, we will provide for what happens when the successors are not yet appointed. But just one clarification, Mr. Sponsor, the incumbent BTA members are eligible for another appointment in the extended BTA period.

Sen. Tolentino: Yes, Mr. President. Because as what I have said in the interpellation, what we are extending is the institution, is the structure, is the parliament, not the prolonging the office holder himself. He is entitled to be reappointed.

Sen. Koko: Thank you, Mr. Sponsor. Very clear, very simple and I think we should be able to pass this in the soonest possible time. So thank you for your patience with me, Mr. Sponsor. Thank you, Mr. President.

Sen. Tolentino: Thank you, Mr. President. Thank you to the gentleman from Cagayan de Oro.

Sen. Zubiri: Thank you to our dear colleague from Cagayan de Oro. Mr. President, next to interpellate the gentleman from Cavite is a fellow Caviteño as well, and from Zambales, Senator Richard Gordon.

Sen. Sotto: Senator Richard Gordon is recognized.

Sen. Richard Gordon: Thank you very much Mr. President. Thank you very much, majority floor leader. I just have a few questions. Following the questions of Senator Pimentel and Senator Drilon. It is very clear that there will be a hold over capacity and I'm sure if somebody vacates the office or dies, the president can appoint. Would that be correct, Your Honor?

Sen. Tolentino: Correct, Mr. President.

Sen. Gordon: Alright. So long as you understand that. Now, I think you have already removed the provision where the MNLF was removed, as well as the women and children. Am I correct in my understanding? I just want to make sure, Mr. President.

Sen. Tolentino: Just to reiterate, Mr. President, we never removed the MNLF, the women and children, the youth, the ulama, the traditional leaders, the non- Moro settlers. They're all there. I mentioned several times ago that there is a cleansed version and implied repeal has not been followed, Mr. President. So as I have mentioned in the previous interpellations, we need not incorporate all the provisions of the existing law in a two-page bill. We just retained the composition of an 80-member parliament, with the 8 reserved positions, with the majority coming from the MILF. And of course, it was explained a while ago by the good majority leader the reasons behind this. There were several consultation meetings with the LGUs, with the governors, with the MILF, and it was agreed upon that we stick with the precepts of BOL but the LGUs will have representations. So as explained by the majority leader, that's the reason for the spirit behind the section 2, which I agreed can be deleted, reformatted, in a simplified manner, Mr. President. But there is no intention to remove the MNLF. I have spoken to the son of my friend Muslimin Sema, in fact, the cleansed version, I repeat again, the MNLF has been prominently mentioned.

Sen. Gordon: Thank you, Mr. President. I just wanted to be assured because I authored this bill as well. I think I was the first one who filed the extension. I also want to point out also here that you're citing Licaros vs. Sandiganbayan is really on point because really the law abhors the vacuum. And that's what we're trying to prevent. And having said that I just want to have assurances. I realize that the bigger picture here is that we promote the peace and I think Senator Drilon has also cited that we continue this, I wouldn't call it an experiment, but certainly an exercise that is to be done. And what is important here, I believe is to make sure that in spite of COVID, which has delayed them and foreign investments have been delayed as well, the investors have been delayed, there are certain concerns that I would like, and I'm sure that they are ready to assure me about that, the determination of the parliamentary districts, fully working functional bureaucracy, established [unintelligible] government relational body, council of leaders, clarified basis for computation of the admiral block grant, the exercise of taxing powers and revenue generation, transfer of power, functions, assets, personal [unintelligible], national government agents to BARMM, the police forces that have been formulated, there is still a floating team of armed forces, PNP in BARMM, joint security team, and other things, I would imagine that once we approve this, you should proceed post-phase, so that indeed we can continue to support the BTA as well as the efforts of this senate.

Particularly, Senator Zubiri in making sure this system works. Would that be an agreement with your desires, among other things, good sponsor?

Sen. Tolentino: I totally agree with the original sponsor, Mr. President.

Sen. Gordon: I just wanted to make sure that we don't forget because I don't want to see a situation where when we are on our third year or penultimate year of extension, we will find out that these things have not been done. I am told that there were many young people who came back to Mindanao because of this bill. Hoping they would get a job in the BTA. I do not know if that is accurate but I've been told that they were not given the jobs because most of the positions have been occupied by the senior folks, some of whom may not have been schooled in the law. And I am one of those who believe that being schooled in the law is only one of the qualifications, what is important is their heart, as well as their mind in making sure that the Bangsamoro experiment happens. And just a caveat, I hope that the transition authority will only consider the young people, perhaps they may be able to move a little faster, by having the young Muslim lawyers, young Muslim doctors, et cetera, come back to help the authority. And certainly, Mr. President, I would also like to see investments come in. Especially now, that there is a problem with certain crops that don't have a market at the moment or were not able to harvest or plant well. I really think that we really have to make sure that all these concerns are addressed. I have no other questions, Mr. President. With the assurances, I thank the sponsor for the time that he has allowed me to interpellate. Thank you very much, Mr. President.

Sen. Tolentino: Thank you, Mr. President, for the insights of Senator Dick Gordon.

Sen. Zubiri: Thank you very much from our colleague from Zambales. And also, he was the principal author for this measure. We thank him for his patience and his support. Thank you also to our sponsor. Last in the list to interpellate is our distinguished colleague from Ilocos Norte, equally supportive of the move for peace in Mindanao. May we recognize Senator Imee Marcos.

Sen. Imee Marcos: Thank you very much, Mr. President. And if the distinguished sponsor will allow, this is just a mere point of information. And regardless of the inclusion of section 2 or its simplification to a single section, it appears that 80 new interim members of the BTA are to be appointed. 47 from the MILF, 4 each for the 6 provinces of the ARMM, including Sultan Kudarat. Which I wanted to verify. Also one member from the following local governments, the barangays in North Cotabato, Marawi City, Cotabato City, thereby the exclusion of the component city of Lamitan, and then six members by non-Moro indigenous peoples. Assuming section 2 will be upheld in principle if not in fact, may we just know if the component city of Lamitan will not be included in the city representation and if in fact, Sultan Kudarat, which is frequently included in the listing of the BARMM provinces shall be allotted four seats.

Sen. Tolentino: Yes, Mr. President. This representation clarified one. I clarified last week Sultan Kudarat, that was a typo. For reasons, during our consultation meetings, the congressman of

Sultan Kudarat is always present so that added to my sort of confusion. Two, there is a turnover of firearms, I showed a picture two years ago, surrendering of long firearms in Sultan Kudarat. Insulan, I was there. General Galvez was there. President Duterte was there. So, Sultan Kudarat is not included, Mr. President. That seat is for the newly created Maguindanao del Sur province. In the cleansed version, Lamitan is included, Mr. President. But there was an agreement that we can do away with section 2 so that would probably be moot, Mr. President. And all the groups mentioned, as the reserved 8, will be retained, as set forth in the law and this would be referring to the ulama, the youth, the women, the traditional leaders, non-Moro settlers, the traditional leaders, the IPs. Nothing has changed. We will still have an 80 member BTA, following the organic law. The membership of which majority will be coming from the MILF, without prejudice to the participation of the MNLF in its membership, Mr. President.

Sen. Marcos: Okay. Because in the... there have been many assertions that if the ARMM was unduly weighted towards the MNLF, the BARMM has become MILF territory. Any comments po?

Sen. Tolentino: I see no reason to pursue a demarcation that will heighten, Mr. President, divisiveness. The intention of this representation is to promote a culture of tolerance within Bangsamoro, a culture of inclusiveness. That's why we're projecting beyond May 2022 a mere approximation of what the law has been envisioned. A Bangsamoro made up of various cultures, historically connected, and with the same temper and tradition, Mr. President. So we really have to recognize all including the settler communities of Christian and the Ilocanos of Northern Cotabato.

Sen. Marcos: Yes, well taken, Mr. President. Cardinal Quevedo, grand uncle of mine, actually requested that he be clarified on those 8 sectoral representatives for the settler communities. And I think the sponsor has repeatedly done that. However, the question arose that 47 members nominated were to be explicitly from the MILF, whereas there is no specific representation from the MNLF. I think that that's where the controversy arose.

Sen. Tolentino: Mr. President, that was an interpretation. Because the 47 if you dissect this, 41+6 is 47. The 41 represents the MILF, which is the current membership composition. The six out of the 47 is the MNLF. So 41+6 is 47, Mr. President and I again reiterate that the provision there should be no prejudice on the participation of the MNLF. We recognize our MNLF brothers. But then again, Mr. President, as agreed upon with our other colleagues, there probably would be a need to just delete the presence of section 2 and retain the original intent of section 2 of Republic Act No. 11054.

Sen. Marcos: Thank you very much, Mr. Sponsor, Mr. President. Last week, May 24, I filed Senate Resolution 729, embarking upon an inquiry in aid of legislation into the accounting and liquidation of the appropriations and annual grant blocks of 2020 and 2021 to the BARMM. Totalling the humongous number given our situation, with the pandemic, of 160.8 billion. Could this be the elephant in the room that we must deal with that this budget be accounted for and



that its expenditure be rendered transparent so that we finally get in a real output report on decommissioning, the continued proliferation of firearms, and so on.

Sen. Tolentino: Mr. President, I do not have records with me to provide a direct accounting of how the funds were spent. To give a general picture, the normalization...

Sen. Marcos: Mr. President, I tried the sponsor in the hearing and we're fully aware that less than 1/3 of the ARMM combatants are actually decommissioned. And that somewhere 1/10 and 1/6 of the arms have been surrendered, that is all. Are we able to make this a pre-condition to the holding of elections. That we have some accountability on all these sums. Otherwise it is really democracy on hold and self-governance denied once again.

Sen. Tolentino: Mr. President, from my research here, and I'd like to reiterate what I mentioned last week, the normalization budget is not a budget given directly to the BTA. The budget is downloaded to the various government agencies, the office of the peace process, the DSWD, the agrarian reform, the agriculture, the health, etc, etc. So, they do not directly get hold of the budget. The budget given to them is the budget for their operationalization which I was told was not given as a block grant but on a monthly basis because of the pandemic. Na-FLR din po sila, Mr. President. And if you speak of normalization, Mr. President, perhaps some of the aspects of normalization are no longer part of the BARMM's jurisdiction. For instance, nagbigay po ng budget para sa social services. But there are MILF military camps outside of the BARMM's jurisdiction. For instance, there is a military camp in Lanao del Norte. There is an MILF community in Zamboanga Sibugay. No longer part of BARMM, no longer part of the BTA's jurisdiction. No longer part of the minister of education of BARMM, including Davao del Sur. So BTA has no authority, no responsibility for the implementation of the projects therein. So, there are some intricacies here. Hindi po lahat sila may hawak ng pera. Hindi po nila hawak yung teritoryo.

Sen. Marcos: We understand that the entire 160 billion did not go directly to them. But certainly, there is confirmation that said amount was downloaded. Who then should be responsible? We are also aware that the GAA, the department of Agriculture, DSWD, and other departments have very clear cut some allotments despite the block grant. Will the sponsor not support an inquiry into this humongous amount so that we are certain that they addressed the noble objectives of the organic law of Bangsamoro.

Sen. Tolentino: Yes, Mr. President. I agree that the agencies should be held accountable on whether they delivered the services...

Sen. Marcos: Many of the sums went to the BTC, not merely the line agencies, Mr. Sponsor. That is a fact.

Sen. Tolentino: Yes, Mr. President. I agree that the agencies should be held accountable on whether they delivered the services.

Sen. Marcos: Many of the sums went to the BTC. Not merely the line agencies, Mr. Sponsor. That is a fact.

Sen. Tolentino: There were amounts given to the BTA that were for the services but not as big as the services required as the line agencies, Mr. President. So if there is an accountability needed here, we have time during the budgetary process to ask the agencies what happened? What are the deliverables given? What are the parameters achieved? Their accomplishment report, so to speak, Mr. President. I agree with the lady from Ilocos Norte that we have to account for the funds but I reiterate the funds never went directly to the treasury of the Bangsamoro Transition Authority but to the national government agencies involved.

Sen. Marcos: That is what we would have to find out in an inquiry, Mr. President and good sponsor. What amounts went to the BTC directly. I'm fully aware and commiserated with many of the officers of the BTC who were left unpaid for months on end because of the delay in the releases. However we are fully aware that huge sums have been expended and surely must be accounted for. Thank you very much.

Sen. Tolentino: I support the lady's call for an inquiry. I'll join the inquiry Mr. President.

Sen. Marcos: Thank you very much. That will be all.

Sen. Tolentino: Thank you Mr. President. Thank you Senator Marcos.

Sen. Zubiri: Thank you very much Mr. President. In my list we have exhausted all members. Only one last Mr. President, Senator Lacson and tomorrow we'll hopefully be able to have Senator Lacson online or here in the premises to interpellate the distinguished gentleman from Cavite. May I just request our colleagues who have planned amendments to be ready with the amendments so we can close possibly the period of amendments as well tomorrow and approve this on second reading as there are no other interpellators other than Senator Lacson. So congratulations are in order for our dear colleague and I move to suspend consideration of this measure to tomorrow, Mr. President.

Sotto: Any objection? Hearing none. Consideration suspended.

[end of transcript]