

JOURNAL NO. 33
Tuesday, November 19, 2002

CALL TO ORDER

At 4:00 p.m., Speaker Jose De Venecia Jr. called the session to order.

NATIONAL ANTHEM AND PRAYER

Pursuant to Section 71, Rule XI of the Rules of the House, the Members sang the National Anthem and thereafter, the Speaker delivered the following invocation:

Thank you, Lord, for giving us a successful caucus and for the commitment of the Members of the House to attend the sessions in full force so that we can approve the most important bills needed by our people and by the Republic, especially on the eve of Christmas.

DEFERMENT OF THE ROLL CALL
AND THE APPROVAL OF THE JOURNAL

On motion of Majority Leader Neptali M. Gonzales II, there being no objection, the Body deferred the calling of the Roll and the approval of the Journal of the previous session.

REFERENCE OF BUSINESS

Thereupon, on motion of Rep. Gonzales, there being no objection, the Body proceeded to the Reference of Business.

Upon direction of the Chair, the Secretary General read on First Reading the titles of the following Bills and Resolutions, including the Communications, which were referred to the appropriate Committees hereunder indicated:

BILLS ON FIRST READING

House Bill No. 5449, entitled:

"AN ACT ESTABLISHING A MUSLIM FILIPINO CEMETERY IN METRO MANILA, AND APPROPRIATING FUNDS THEREFOR"

By Representative Syjuco

TO THE COMMITTEE ON MUSLIM AFFAIRS, THE COMMITTEE ON LOCAL GOVERNMENT AND THE COMMITTEE ON APPROPRIATIONS

House Bill No. 5450, entitled:

"AN ACT CREATING THE MUNICIPALITY OF DON MANUEL MEDEL"

By Representative Bautista

TO THE COMMITTEE ON LOCAL GOVERNMENT

RESOLUTIONS

House Resolution No. 871, entitled:

"RESOLUTION URGING THE HOUSE OF REPRESENTATIVES, THROUGH THE COMMITTEES ON GOVERNMENT ENTERPRISES AND PRIVATIZATION, GAMES AND AMUSEMENT AND PUBLIC ORDER AND SECURITY, TO IMMEDIATELY CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, INTO THE ALLEGED DISCLOSURE OF CONFIDENTIAL INFORMATION OF LOTTO WINNERS BY CERTAIN EMPLOYEES OF THE PHILIPPINE CHARITY SWEEPSTAKES OFFICE (PCSO) AND TO REVIEW SAFEGUARD MEASURES BEING IMPLEMENTED BY THE PCSO TO PROTECT THE LIFE AND PRIVACY OF THE LOTTERY 'LOTTO' WINNER"

By Representative Syjuco

TO THE COMMITTEE ON RULES

House Resolution No. 872, entitled:

"RESOLUTION URGENTLY DIRECTING THE COMMITTEE ON ENERGY OF THE HOUSE OF REPRESENTATIVES TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, INTO THE DELAY IN THE IMPLEMENTATION OF THE RURAL ELECTRIFICATION PROJECT BY THE LANA DEL NORTE ELECTRIC COOPERATIVE"

By Representative Badelles

TO THE COMMITTEE ON RULES

House Resolution No. 873, entitled:

"RESOLUTION DIRECTING THE COMMITTEE ON TRANSPORTATION AND COMMUNICATIONS TO CONDUCT, IN AID OF LEGISLATION, AN INQUIRY INTO THE POOR SERVICE OF THE PHILIPPINE AIRLINES, PARTICULARLY ITS DELAYED FLIGHT SCHEDULES"

By Representative Abayon

TO THE COMMITTEE ON RULES

House Resolution No. 874, entitled:

"RESOLUTION URGING THE COMMITTEE ON TRANSPORTATION AND COMMUNICATIONS TO IMMEDIATELY CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE CIRCUMSTANCES BEHIND THE CRASH OF FLIGHT 585 OF LAOAG INTERNATIONAL AIRLINES"

By Representatives Macarambon and Abayon

TO THE COMMITTEE ON RULES

ADDITIONAL COAUTHORS

With the permission of the Body, the following Members were made coauthors of the Bills and Resolutions hereunder indicated:

Rep. Amado T. Espino Jr. for House Bill No. 857;

Rep. Romualdo T. Vicencio for House Bills No. 2433 and 5354;

Rep. Wilhelmino M. Sy-Alvarado for House Bill No. 2858;

Rep. Eleuterio R. Violago for House Bills No. 4415, 4529 and 4549;

Rep. Edgar M. Chatto for House Bill No. 4809;

Rep. Carmen L. Cari for House Bill No. 5348;

Rep. Gerardo S. Espina Sr. for House Bills No. 3539, 4817, 4860, 5143, 5348, 5416, 5417 and 5420;

Rep. Reynaldo A. Calalay for House Bills No. 5438, 5439, 5441, 5442, 5443, and 5444;

Rep. Alfonso V. Umali Jr. for House Bills No. 5438, 5439, 5441 and 5442; and

Rep. Narciso D. Monfort for House Resolutions No. 821 and 824;

COMMUNICATIONS

Bangko Sentral Circulars Numbered 352 to 356, Series of 2002

TO THE COMMITTEE ON BANKS AND FINANCIAL INTERMEDIARIES

Letter dated October 2002 of Rafael B. Buenaventura, Governor, Bangko Sentral ng Pilipinas, submitting to the House of Representatives a copy of their Report on the Status of the Philippine Financial System for the 1st semester of 2002

TO THE COMMITTEE ON BANKS AND FINANCIAL INTERMEDIARIES

OMNIBUS ADOPTION OF COMMITTEE REPORTS ON CERTAIN HOUSE RESOLUTIONS REQUESTING INQUIRIES IN AID OF LEGISLATION

On an omnibus motion of Rep. Gonzales, there being no objection, the Body adopted the following Committee Reports on certain House Resolutions as reported out by the Committee on Rules, together with the amendments, if any, to be referred to the appropriate Committees indicated herein:

1. Committee Report No. 1007 on House Resolution No. 792, directing the Committee on Good Government to investigate the manner in which the National Disaster Coordinating Council, the Department of Public Works and Highways, and the Department of Social Welfare and Development allocate and disburse the Calamity Fund;
2. Committee Report No. 1008 on House Resolution No. 818, directing the Committee on Energy to investigate the justness and propriety of the new round of oil price increases;
3. Committee Report No. 1009 on House Resolution No. 819, directing the Committee on Local Government to investigate on the matter of the enactment of City Ordinance No. 8039 by the Sangguniang Panlungsod of Manila;
4. Committee Report No. 1010 on House Resolution No. 839, directing the Committee on Justice to inquire on the manner of disbursements and expenditures by the Supreme Court Chief Justice of the Judiciary Development Fund;
5. Committee Report No. 1011 on House Resolution No. 820, directing the Committees on National Defense, and Foreign Affairs to determine the material

benefits derived by the government from the recently-held Balikatan exercises;

6. Committee Report No. 1012 on House Resolution No. 821, directing the Special Committee on Globalization and WTO to investigate the benefits and disadvantages resulting from the entry of the Philippines into the World Trade Organization;
7. Committee Report No. 1013 on House Resolution No. 823, directing the Committee on Energy, to inquire on the basis of the rise of the Purchased Power Adjustment (PPA) charges of MERALCO and its impact on the consumers;
8. Committee Report No. 1014 on House Resolution No. 826, directing the Committee on Transportation and Communications to investigate the alleged direct control and interest of Star TV in Beyond Cable Holdings, Inc., the merged firm of Sky and Home Cable;
9. Committee Report No. 1015 on House Resolution No. 827, directing the Committee on Good Government, to inquire on the alleged overpricing of the Pres. Diosdado Macapagal Boulevard Project;
10. Committee Report No. 1016 on House Resolution No. 828, directing the Committee on Government Enterprises and Privatization to investigate the alleged financial deficiency of the Social Security System (SSS) and its management's plan to increase SSS premium rates;
11. Committee Report No. 1017 on House Resolution No. 830, directing the Committee on Transportation and Communications to inquire into the provisional increase of toll rates granted by the Toll Regulatory Board in favor of the Citra Metro Manila Toll Ways Corporation;
12. Committee Report No. 1018 on House Resolution No. 831, directing the Committee on Government Reorganization to inquire on the proposed abolition of the National Printing Office;
13. Committee Report No. 1019 on House Resolution No. 832, directing the Committee on Labor and Employment to inquire into the alleged indiscriminate granting of exemptions to 510 companies by the National Wages and Productivity Commission;
14. Committee Report No. 1020 on House Resolution No. 834, directing the Committee on Agriculture, Food and Fisheries to inquire into the importation and alleged smuggling of vegetables;
15. Committee Report No. 1021 on House Resolution No. 836, directing the Committee on Good Government to investigate the alleged irregularities, abuses and gross mismanagement of the Maigo School of Arts and Trades in Lanao del Norte; and
16. Committee Report No. 1022 on House Resolution No. 837, directing the Committees on National Defense and Foreign Affairs to inquire into the terms of reference or other legal basis supporting the conduct of the Joint RP-US military exercise dubbed as "Talon Vision-02".

THE PRIVILEGE HOUR

With the permission of the Speaker and the unanimous consent of the Members, on motion of Rep. Gonzales, the Chair declared a Privilege Hour.

PRIVILEGE SPEECH OF REP. ALBANO

Upon recognition by the Chair, Rep. Albano brought to the attention of the Body the delayed development and questionable transactions involving Fort Bonifacio land. At this juncture, the Speaker relinquished the Chair to Deputy Speaker Raul M. Gonzalez.

Rep. Albano recalled that the development of Fort Bonifacio was designed by Congress to raise revenues for the government, but opined that it had become the "milking cow of some sacred cows." He noted that the slow or delayed development of said land is entangled in intricately-designed legal cobwebs which were woven with manipulations or machinations of personalities employing layers of corporations tied up with the Bonifacio Land Corporation (BLC), the Metro Pacific Corp (MPC), the Fort Bonifacio Development Corp. (FBDC), the Bases Conversion Development Authority (BCDA), and the Philippine Long Distance Telephone, (PLDT) Co. He claimed that these personalities whom the public perceive as men of integrity and honesty are in reality, men of dubious character who must be unmasked, stopped and condemned because they have circumvented the nation's laws for "millions of reasons."

To better understand the paradox of the unholy and dubious alliances or interlocking relations of multi-layers of corporations on the financial affairs of the above-mentioned companies, Rep. Albano advanced the following statements:

1. The BCDA was tasked to convert the former military bases, with a gross land area of 2,100 hectares, into civilian use in order to augment government revenues. Initially, the BCDA organized the FBDC to develop and implement the Master Development Plan (MDP) detailing the development of 440 hectares of Fort Bonifacio into a comprehensive community of residential, commercial, institutional and leisure uses denominated as the "Bonifacio Global City";
2. In 1995, the BCDA accepted the bid of the BLC to participate in the development of the 214 hectares scheduled for development but BCDA failed to deliver 57 hectares so the area for development became 157 hectares;
3. The BLC is a consortium of Filipino corporations led by Metro Pacific Corporation. In February 1995, a joint venture agreement was executed between the individual BLC consortium members and the BCDA whereby the former acquired from the BCDA for the price of approximately P39.2 billion, 55% of the outstanding capital stock of the FBDC. The 45% stockholdings remained with the BCDA;
4. MPC is the Philippine investment arm of the First Pacific Company (FPC) of Hong Kong, and has two subsidiaries, namely, the Landco Pacific Corporation (Landco) and the Pacific Plaza Towers, Inc. (PPTI); and
5. While the FPC, a Hong Kong company, has no direct investment in the MPC, it controls and directs strategic and decisive decisions on the financial affairs of domestic corporations, especially of the MPC and PLDT. FPC's control is camouflaged by layers of corporations and interlocking ownership.

Whereupon, Rep. Albano urged the Members to look at the big screen facing them which showed a graphic illustration of the interlocking relations of various foreign and domestic corporations involved in the Fort Bonifacio project. He disclosed that the FPC of Hong Kong has three 100% fully-owned subsidiaries, namely: 1) the First Pacific International, Ltd. of Hong Kong; 2) the Intalink, a Dutch corporation incorporated in the British Virgin Island; and 3) the Larouge, another Dutch company organized in the same island. He then stressed that these three foreign corporations have interwoven interests in various domestic corporations.

He further said that the FPC extended a loan to Mr. Manuel V. Pangilinan who, in

turn, organized the Enterprise Investment Holding, Inc. (EIHI), owning 66.67% of the authorized capital stock of P1 billion of EIHI. He revealed that other prominent stockholders of EIHI include the Ambassador to the United States, Albert F. Del Rosario (P25 million) and former Commissioner Rene Bafiez of the Bureau of Internal Revenue (P5 million). He shared his apprehensions on whether or not the investments of Messrs. Del Rosario and Bafiez were funded by the FPC and whether these investments can be justified by their income taxes.

Rep. Albano pointed out that if it is validated and verified after a congressional hearing that the FPC had indeed funded the multi-million investments of the stockholders, they would have a sad spectacle of Filipino business leaders led by Mr. Pangilinan being used as fronts or dummies of the FPC in organizing EIHI which is the great, great parent of other domestic corporations headed by Mr. Pangilinan.

In addition, Rep. Albano mentioned that EIHI organized the Metro Pacific Holdings, Incorporated (MPHI), owning 57.68% of the latter, while the remaining shares are owned by subsidiaries of the FPC, by the First Pacific International, Ltd. of Hong Kong, and by Intalink. He then proceeded to identify the members of the MPHI Board of Directors which is also headed by Mr. Pangilinan.

Rep. Albano pointed out that MPHI, in turn, organized Metro Pacific Resources, Incorporated (MPRI), holding 60% of its subscribed capital of which 39% is owned by Metro Pacific Investment Limited., another Hong Kong corporation which is a 100% subsidiary of FPC. He noted that the authorized capital for the MPRI is at P1 billion shares at P100.00 par value per share with the subscribed/paid-up capital at P625,125,000. He pointed out that the Board of Directors of the MPRI consists of Mr. Pangilinan as chairman and the following as members: Messrs. Pascua, Alberto Del Rosario, Ronald Brown, Michael Healy, Antonio Picazo, corporate secretary. He added that the stockholders of the MPRI is likewise shown in the powerpoint presentation.

Rep. Albano likewise noted that MPRI, in turn, organized MPHI, holding 60% of its subscribed capital stock with 39% owned by Intalink British Virgin Islands, a full subsidiary of FPC. The authorized capital of the MPHI is at P1 billion and the subscribed/paid-up capital is P250,100,000, he added. He pointed out that the Board of Directors of the MPHI consists of Mr. Pangilinan again as chairman; Mr. Nazareno as president; and Messrs. Del Rosario, Brown, Healy, as directors and Mr. Picazo as the corporate secretary. Moreover he said that the stockholders are: Metro Pacific Resources, Inc., Intalink B.V., Messrs. Pangilinan, Del Rosario, Brown, and Healy.

Rep. Albano subsequently pointed out that Metro Pacific Assets Holdings, Incorporated, together with Larouge British Virgin Islands owning 40%, and a domestic corporation owned by Mr. Antonio "Tony Boy" Cojuangco, holding 46%, organized the Philippine Telecommunication Investment Corporation with an authorized capital of P93,600,000; with P24 million as common shares and P22 million as paid-up capital. He noted that the Board of Directors of the PTIC consists of Mr. Antonio Cojuangco as chairman, Mr. Pangilinan as president and the following as members: Messrs. Ramon Cojuangco, Del Rosario, Nazareno and Ms. Maria Lourdes Rausa-Chan as corporate secretary. He pointed out that the names of the stockholders are indicated therein.

Rep. Albano thereafter pointed out that the following companies have the following subscribed capital shares in the PLDT: PTIC with 16%; Larouge B.V. with 3.97%, and Asia Link, a foreign company together with British Virginia, another Dutch corporation and is controlled obviously by the MPC, has a 1.7% stake.

Rep. Albano subsequently explained that the MPRI together with the MPHI, First Pacific International Ltd., Intalink B.V. and Mr. Pangilinan organized MPC with a

capital of P30 billion. He added that the MPC has P29 million common shares at one peso par value per share, and preferred shares of P1 million at one peso par value per share. He pointed out that the subscribed capital stock is placed at P18,606,673,157.00 and the Board of Directors consist of the following: Mr. Pangilinan, as chairman and president with Messrs. Nazareno, Christopher Young, Edward Tortorici and others members. He noted that the 20 top stockholders include Mr. Ramon Sy, and a lot of alleged honorable people.

Rep. Albano noted that MPC, in turn, organized Bonifacio Land Corporation controlling 45.85%; Metro Capital Corporation has 15.69% interest; 3.4% from ML & H Corporation; 4.7% for Urban Bank ; 18.8% for FBDC; .33% for Allied Banking Corporation; 1.86% for MPHI; 1.39% for Landco Assets Management Incorporated; 2.18% for China Banking Corporation; 2.17% for the GSIS; and a nominal share for Puerto Azul Land Incorporated.

He disclosed that BLC's authorized capital stock is P15 billion and the subscribed capital is P5,693,300,500.00. Again, he noted that the board of directors has Mr. Pangilinan as chairman and president.

Rep. Albano noted that BLC thereafter entered into a joint share with the BCDA and organized the FBDC wherein BLC owns 55% while BCDA owns 45% thereof.

Rep. Albano pointed out that what he had revealed is the complex structure of the mystifying, mysterious and enshrouded MPC and PLDT.

He said that there is no direct investment or link between FPC and MPC. However, he pointed out that the investment strategic and crucial voice/decision of the FPC in MPC and PLDT were admitted by Mr. Pangilinan, the executive chairman of MPC, in FPC's Annual Report of 2001, which was disseminated to the stockholders, copy of which he has in his possession. He pointed out that Mr. Pangilinan had admitted in the annual report of the stockholders that the three key areas of investment of the FPC are in PLDT, Indo Food and MPC. Likewise, he said, Mr. Pangilinan had admitted in the report that in April 2002, FPC had obtained a US\$90 million loan from Larouge, a Dutch corporation chartered in British Virgin Islands operating in Hong Kong and owned by FPC. Mr. Pangilinan also revealed in the report that when Metro Pacific was unable to repay the P90 million Larouge loan, the FPC as secured creditor over 50.5% interest in BLC, the 55% shareholder of MPC in the joint development project that had been pledged as collateral, undertook to co-manage the sale of FMP's controlling 69.9% interest in BLC. In this Interim Report of 2002 of FPC, he pointed out that the investments and the strategic control and decisions in MPC and PLDT are prominently discussed. He disclosed that in the report, Mr. Pangilinan had admitted and documented FPC's subtle and mischievous use of dummies and fronts through layers of domestic and foreign corporations to invest and own controlling shares in MPC and PLDT.

Rep. Albano noted that Mr. Pangilinan is man enough to be truthful and straightforward when he admitted and reported, as the executive chairman of the First Pacific of Hong Kong, the investment of First Pacific in Metro Pacific and the PLDT. However, he noted that records of the Securities and Exchange Commission (SEC) and general information sheets filed by First Pacific satellites, had submerged and omitted First Pacific's investments. He pointed out that Mr. Pangilinan who is wearing another face as president of MPC is not man enough to admit that MPC and PLDT are orchestrated, controlled, and managed by FPC. He disclosed that Mr. Pangilinan has multiple personalities: as factotum of FPC; as the controlling stockholder of EIHI the great, great grandmother of domestic layers of corporations that holds shares in MPC and PLDT; as president and CEO of PLDT; and as manager of the Ateneo basketball team.

Rep. Albano pointed out that Mr. Pangilinan has a separate personality as the president of MPC that owns majority of BLC, which, in turn, owns majority shares of the FBDC. Mr. Pangilinan's multiple and separate personalities have wittingly and conveniently camouflaged through the use of layers of corporations, the true ownership of MPC and the PLDT shares, he disclosed. Likewise, he noted that Mr. Pangilinan has significantly and mischievously submerged the fact that FPC of Hong Kong and its 100% subsidiaries are in reality the funders of the layers of corporations that have majority shares of MPC and the acquisition and control of PLDT shares.

Notwithstanding the absence of direct investments of FPC in MPC and PLDT, he said that the use of layers of corporations between FPC and MPC -- the Annual Report of Mr. Pangilinan for 2002 and the Interim Report of 2002 of First Pacific -- has confirmed that indeed, First Pacific has decisive and strategic control in the affairs of MPC, the majority shareholder of BLC which owns 55% of FBDC and in PLDT.

Rep. Albano revealed that PPTI is a joint venture between MPC and BCDA, and based on the agreement, collections by MPC from sales of PPTI units and land, in cash or installment, shall be remitted to the two parties on a pari passu basis. Differently stated, for every payment received by MPC, 75% goes to MPC and 22% must be delivered to BCDA, he explained.

Thereupon, Rep. Albano opined that BCDA directors and officers have conveniently and wittingly submerged the fact that MPC failed to remit to BCDA its 22% share from the proceeds of the sale of PPTI units and land. He said that MPC directors and officers led by Mr. Pangilinan who failed to remit 22% of the collection due to BCDA in the sum of P1,274,000,000.00, had committed a classic example of estafa on several counts, under Article 315, paragraph 1, subparagraph (b) of the Revised Penal Code. He stressed that everytime MPC receives payments for the sale of the units or land, in cash or installment, the MPC directors have the duty and obligation to remit the 22% of the payment to BCDA. For every payment/collection received and for every failure of MPC to remit, a separate crime of estafa is committed, he underscored. Hence, he disclosed that the members of the Board of MPC led by Mr. Pangilinan are criminally liable because they have committed estafa on several counts.

Whereupon, Rep. Albano recalled that the previous year, the BDC sold a property (denominated as Bonifacio Center Compound/Headquarters of MPC and FBDC) to a group led by Megaworld. He pointed out that the MPC officers had again failed to remit the 22% share of BCDA amounting to P250 million, exclusive of interest.

Rep. Albano then asked whether the BCDA directors had conspired or connived to acquiesce and/or tolerate the non-delivery by the MPC of the 22% share of BCDA. Considering that the failure to remit the 22% share have been going on for a number of years, he opined that there is a prima facie evidence that BCDA directors have colluded, connived or conspired in the commission of serial estafa or swindling.

Rep. Albano pointed out that MPC had failed to remit the total amount of more than P1.5 billion, or the 22% share due to BDA. He thereafter opined that the total amount swindled by MPC's officers and directors is more than P1.5 billion. He then inquired on the cause of the delay in the filing of charges. He noted newspaper reports that MPC is divesting its shares in BLC. This, he said, is a warning to the BCDA to wake up and assert its rights and act with dispatch to protect the interest of the government. He suggested that to ensure payment of more than P1.5 billion which is exclusive of interest, the BCDA should take steps to prevent the MPC from disposing/encumbering its shares or from borrowing more funds. He cautioned the buyers of shares of the MPC in Bonifacio Land Corp. or lenders to the MPC to cease

or desist from buying or lending to the MPC because they are entering a dangerous zone and the likelihood of getting burned or buried is imminent.

Rep. Albano said that he is accusing the officers of MPC led by Mr. Pangilinan of the crime of estafa on numerous counts. Incidentally, he asked whether Mr. Pangilinan is the same person who was reported to have issued checks involving millions of pesos that was found in the famous Jose Velarde account. Similarly, he asked whether the checks issued and found in the Dichaves account have something to do with the group of MPC or BLC to develop Fort Bonifacio or for the acquisition of PLDT shares. He further asked why Mr. Pangilinan was not included in the cases filed relative to the Jose Velarde account.

Thereupon, Rep. Albano accused the board and officers of the BCDA violating of Republic Act (RA) No. 6713, or the Code of Conduct and Ethical Standards for Public Officials and Employees, and of RA No. 3019, as amended, or the Anti-Graft and Corrupt Practices Act for reckless negligence that had resulted in the failure to collect more than P1.5 billion and/or the filing of several counts of estafa against the directors and officers led by Mr. Pangilinan. He claimed that after realizing that the MPC board of directors and officers had committed multiple estafa on several counts, the MPC made the subtle and ingenious criminal offer to avoid criminal liability to settle its obligation by way of dacion over certain real estate, including cemetery lots and condominium units, and overvalued prices as payment for the P1.2 billion swindled amount, exclusive of interest. He opined that BCDA's acceptance of overpriced land as a payment for the P1.2 billion, exclusive of interest, is a clear violation of the Anti-Graft and Corrupt Practices Act and is manifestly disadvantageous to the government and unduly advantageous to the MPC. Moreover, he claimed that it is a violation of the BCDA's rationale behind its efforts to raise funds and to accept receivables as payments.

Rep. Albano further accused and indicted the BCDA officials for defaulting to protect the interest of the government. The BCDA, he said, is fully aware of the sales in cash and installment for the units and the land. It is likewise cognizant, he said, of the fact that the MPC had failed to deliver the BCDA shares. Lamentably, he noted that the BCDA board and officers had extended their hands but failed to file criminal charges of multiple estafa against the members of the board of directors led by Mr. Pangilinan.

He claimed that it was queer that while Mr. Pangilinan is a vocal proponent of ethical governance and preaches honesty, integrity and transparency in corporate governance, his participation and activities in the MPC and the PLDT and its layers of corporations are dubious and pretentious. He pointed out that the capitalization of the layers of corporations was funded by the FPC of Hong Kong, and that MPC is under the control, management and supervision of Mr. Pangilinan through his corporation, EIHI, which owns 60% of MPHI; and Metro Pacific Holdings Inc., in turn owns 60% of Metro Pacific Resources Inc. which owns 45% of MPC.

He maintained that the separation and the wily layering of corporations is an insidious way to conceal and confuse the true owners and stockholders of the MPC and the PLDT. Thus, he stressed that the government and the public are entitled to know the truth behind the "shadowy" interest and participation of Mr. Pangilinan, the key figure who exercises strategic decisions affecting the operations and development of Fort Bonifacio through layers of corporations and transactions of the holdings and interests of the FPC and its foreign and domestic satellites. As both MPC and the PLDT are publicly listed companies impressed with public interest, he stressed the need for a congressional investigation to unmask the true stockholders of the layers of corporations and their financiers so that the proper remedial legislation could be enacted to stop such nefarious corporate practices.

Rep. Albano underscored that the layers of domestic and foreign corporations in sensitive areas affected with public interest must be regulated and supervised by the SEC. However, he stated that the prohibition under the Constitution and other laws prescribing the extent of Filipino ownership could be easily circumvented by the employment of layers of domestic and foreign corporations. In view of the graphic illustration depicting the layers of foreign and domestic corporations cleverly employed to conceal and/or confuse the true owners or stockholders of certain corporations, he reiterated the need to conduct a congressional investigation in aid of legislation to enable the House to put a stop to the dubious practices of lawyers and wily businessmen. For this purpose, he said that transactions such as the sale or assignment of shares or issuance of unissued shares should be held in abeyance until after the House shall have conducted an investigation to determine the true stockholders of the layers of corporations.

He opined that through this precautionary measure, the possibility that unissued shares may be issued or sold again to circumvent the Constitution and the law could be averted. This, as he emphasized that unless Congress promulgates a law that will plug the loopholes conveniently exploited by smart lawyers and businessmen, this practice will not stop.

Thereupon, Rep. Albano recalled that he had demonstrated that the directors and officers of the MPC had criminally failed to deliver the 22% share of the BCDA from the collections and payments of the sales of PPTI units and land on several counts, to the enormous sum of more than P1.5 billion which is badly needed by the government in view of the increasing deficits. He then stressed anew the need to conduct an investigation on the matter to determine how the recurrence of such an unusual practice of refusing to deliver what is due the government could be stopped. Furthermore, he maintained that the directors and the officers of the BCDA should be made to account for their failure to collect more than P1.5 billion due the BCDA, even as the former have been entertaining payments for the swindled amount through the dacion en pago of overpriced lands.

MANIFESTATION OF REP. NOGRALES

Upon recognition by the Chair, Rep. Prospero C. Nograles manifested his intent to interpellate Rep. Albano.

Thereafter, noting that Rep. Albano had 15 more minutes, the Chair then stated that Rep. Nograles may proceed with his speech because the Body had declared a Privilege Hour.

INTERPELLATION OF REP. NOGRALES

Rep. Nograles asked what Rep. Albano had complained about in his speech, to which the latter replied that he had referred to the layering of corporations which hides the true intent and control of the MPC and the PLDT. He noted that in the chart he had presented as well as in the report of Mr. Pangilinan, it had been shown that the FPC, which is a foreign-owned corporation, is controlling a Philippine corporation in violation of the Constitution and the laws of the land. He explained that what he was trying to show was that the FPC had lent Mr. Pangilinan the amount of \$90 million which he, in turn, used for the creation of the EIHI.

Rep. Nograles noted that the first part of Rep. Albano's speech delved on the delayed development of, and the questionable transactions involving, Fort Bonifacio land which has been projected to raise revenues for the government.

Rep. Albano affirmed this point and stated that because of this investment, the MPC which entered into a joint venture with the BCDA, had run into a shortage of funds to the extent that the FPC which is based in Hong Kong, had actually taken control of the MPC.

Rep. Nograles inquired whether Rep. Albano had claimed that Fort Bonifacio is being developed by foreign funds.

Rep. Albano replied that initially, Mr. Pangilinan organized the EIHI and then turned it into many layers of corporations that reached up to the MPC. He added that the MPC is presumably using foreign funds and is actually allowed to borrow foreign funds, and expressed hope that the investigation that would be conducted on the matter would determine the truth thereon.

Rep. Nograles inquired whether under existing laws, interlocking directorships, common ownership or multi-layering of various corporations are illegal per se. Rep. Albano opined that these are allowed under the law, even as he underscored the point that Mr. Pangilinan, who professes to be a believer of the principle of transparent corporate governance, has been able to conceal the actual participation of FPC in controlling the PLDT or the MPC through layers of corporations.

Rep. Nograles noted that Rep. Albano had mentioned personalities in the business communities who have circumvented the laws. He inquired whether the layers of corporations of said personalities have been used to circumvent the laws and if so, what specific laws were violated.

Rep. Albano replied that they had violated the law concerning the control and management of Philippine corporations by foreigners. He explained anew that the MPC had lent money to Mr. Pangilinan who in turn organized all those layers of corporations which were in fact funded by the FPC which is based in Hong Kong. He further stated that as Mr. Pangilinan had claimed in his report, that the FPC had already invested in these corporations and that if the proper Committee of the House would conduct an investigation on the matter, it could prove, based on the evidence in its possession, that indeed the FPC is in control of two corporations vested with the public interest -- the PLDT and the MPC.

Rep. Nograles maintained that the PLDT could not be totally owned by foreign interest because it is a public utility. Rep. Albano affirmed this point and added that Congress should not allow the control of public corporations by foreigners like the FPC.

Rep. Nograles concurred with Rep. Albano's proposal to conduct an investigation on foreign investments in Philippine corporations to determine whether or not said personalities have truly circumvented the laws for various reasons. He stated, however, that he was bothered with Rep. Albano's remark that the money used in the transaction was lent, and thus was a loan. If this were so, he opined that the act of obtaining a loan from foreigners is not illegal per se, but the moment a foreigner lends money to a Filipino, the money becomes Filipino money.

Rep. Albano agreed therewith and reiterated that through the process of layering of various corporations, the actual participation of the FPC was concealed in violation of Philippine laws.

Rep. Nograles contended that it would be illegal if it could be proven that the FPC owns the PLDT because the latter is a public utility.

Rep. Albano clarified that the FPC does not own the PLDT. He added that what he had

tried to convey was that under the Philippine Constitution, foreigners are not allowed to control and direct the operation of Filipino corporations. However, he noted that based on the report of Mr. Pangilinan, the decisive control and decisions affecting the PLDT and the MPC are done by the FPC.

Pointing out that the BCDA had acquired a P39.2 billion from the MPC for the sale of land, Rep. Nograles asked whether the transaction is disadvantageous to the government.

Rep. Albano replied that it is not because the aforementioned amount is payment for the land, although the MPC has entered into a venture with BCDA to build condominiums and to put up the Global City. However, he noted that the MPC had failed to deliver the 22% share of the BCDA in the amount of P1.5 billion.

Rep. Nograles opined that this is illegal because if part of the proceeds of the sale of the Fort Bonifacio property was not remitted to BCDA, then there might have been a conspiracy between the BCDA and MPC officials, thereby depriving the government of much-needed revenues. Moreover, he said that BCDA had not taken steps to protect the interest of the government.

Rep. Albano responded that although he used the term "prima facie collusion," he would accept Rep. Nograles' observation that there was a conspiracy between the two companies, and that he would welcome any request from Rep. Nograles for the immediate resignation of all the BCDA officers and directors.

In this regard, Rep. Nograles stated that the Body can do so if indeed said officials have conspired because under the conspiracy theory in Philippine criminal law, "The act of one is the act of all" such that all of them will be held liable, considering that the transaction mentioned many prominent names such as Mr. Pangilinan, Ambassador Del Rosario, Nazareno, former BIR Commissioner Bafiez and others. He then asked whether Rep. Albano seriously doubted the financial capacity of these persons to invest about P5 million or P25 million in the EIHI when he said in his speech "whether or not they actually invested money or were funded by First Pacific is a big nagging question."

In response, Rep. Albano affirmed this point as far as Mr. Del Rosario is concerned because they had passed upon the latter's qualification in the Commission on Appointments. With regard to Mr. Bafiez, he said that he will ask Rep. Aniceto G. Saludo on the matter.

Thereupon, Rep. Nograles pointed out that it is quite ironic that the multi-million peso investments of these personalities cannot be justified by their income taxes, considering that the same have passed the scrutiny of former BIR Commissioner Bafiez.

For this reason, Rep. Albano stated that the Body can subpoena the BIR to produce the financial records of every individual listed as shareholders in these corporations.

If these people are only acting as dummies of the FPC, Rep. Nograles asked whether Mr. Pangilinan can be considered only as an employee thereof.

Rep. Albano affirmed this view considering that Mr. Pangilinan is the CEO of FPC and according to newspaper reports, the latter does not draw his salary from PLDT but in Hong Kong and therefore, is not supposed to pay income tax in the Philippines.

As to whether the Dutch company, Larouge, had lent money in the amount of \$90 million to MPC or personally, to Mr. Pangilinan, Rep. Albano replied that Larouge

lent money to the corporation and that the transaction is not illegal per se considering that the obligation was secured by FPC, a foreign corporation which has then taken control of MPC, a Philippine corporation. In this regard, he pointed out this is a subtle way of letting foreign corporations control Philippine corporations by means of putting up layers of corporations because the government will not be able to trace how the FPC and Larouge were able to control the MPC by failing to state in the general information sheet the participation of FPC, Larouge, Intalink and FPI Limited.

If indeed foreign corporations are the ones actually running Filipino corporations, Rep. Nograles asked whether Rep. Albano would agree with him that this is very difficult to prove because Filipino corporations have their own personalities and transact business through their board of directors and that, any shadowy character running that corporation cannot just be exposed without sufficient proof.

In response, Rep. Albano agreed therewith and said that he would welcome an appropriate investigation on this matter.

In ending his interpellation, Rep. Nograles joined Rep. Albano in calling for a congressional investigation on this matter. He then expressed apprehension that even in a congressional hearing, it would be very difficult to prove the allegation that layered foreign corporations and dummies were actually running Filipino corporations, and to determine why the BCDA did not protect the interest of the government in certain transactions that deprived the latter of much-needed revenues.

ACKNOWLEDGMENT OF GUESTS

Whereupon, Rep. Felix William B. Fuentebella acknowledged the presence in the Session Hall of the following officials from the Municipality of Gubat, Sorsogon: Municipal Councilor Ed Flores; Barangay Captains Recardo Estur, Ofelia Esparas, Belen Erlano, Edmund Padrique, Rafael Estipona, Pedro Escote Jr. and Rodel Macedonio; and Mr. and Mrs. Bobby Escandor, who were guests of Rep. Jose G. Solis.

EXTENSION OF THE PRIVILEGE HOUR

Thereafter, on motion of Rep. Fuentebella, there being no objection, the Body extended the Privilege Hour for another 20 minutes.

Subsequently, the Chair recognized Gerardo S. Espina Sr. for his interpellation.

INTERPELLATION OF REP. ESPINA

At the outset, Rep. Espina asked whether the main thrust of Rep. Albano's speech points to a possible violation of the Constitution on the provision of ownership of Philippine corporations by foreigners through layering of various local corporations, and the possible commission of graft and corruption on the part of concerned government agencies which have not taken the necessary steps to protect the interest of government and of the country. Rep. Albano agreed therewith.

Inasmuch as the proofs and possibilities of all the allegations have been ably presented by powerpoint presentation, Rep. Espina suggested that this matter be referred to the Committee on Good Government for the same to conduct an investigation thereon and that all the officials of the involved corporations as well as those named in Rep. Albano's speech headed by Mr. Pangilinan be required to appear during the hearing so that they could be questioned directly by the Members.

At this juncture, Deputy Speaker Gonzalez relinquished the Chair to Rep. Arthur D.

Defensor.

In response, Rep. Albano stated that he is amenable to referring the matter to either the aforementioned committee or to the Committee on Economic Affairs. However, he stated that the reason he delivered a speech is that the BCDA and the MPC are about to enter into a dacion en pago for what is due to the former. He then informed the Body that the BCDA is offering cemetery lots as well as overpriced lots although the corporation was not created for this purpose, to acquire revenue for the government. Moreover, he said that the MPC is about to issue shares of stocks to other Filipino investors who might be defrauded in the final analysis.

Whereupon, Rep. Espina pointed out that Fort Bonifacio had been sold by the government for the purpose of raising revenues. However, according to Rep. Albano's speech, this was not realized. If all the allegations are true, he asked whether the people concerned could be guilty of the crime of economic sabotage, a non-bailable offense. Rep. Albano replied in the affirmative.

Inasmuch as before delivering his speech, Rep. Albano was already expecting a congressional inquiry regarding his expose', Rep. Espina asked what other House committees the former wanted his speech to be referred to other than the Committee on Good Government. Because, he said that, if no other Member will interpellate on the matter, he will move for the referral of Rep. Albano's speech to any committee that the latter would prefer.

In reply, Rep. Albano stated that the Committee on Rules will decide on this matter but he would prefer that his speech be referred to the Committee on Economic Affairs.

Thereafter, Rep. Espina suggested that the speech of Rep. Albano be referred to the Committees on Good Government, and Economic Affairs after the interpellation of Rep. Raul V. Del Mar.

The Chair subsequently recognized Rep. Del Mar for his interpellation.

INTERPELLATION OF REP. DEL MAR

At the outset, Rep. Del Mar said that he personally knows some of the stockholders mentioned by Rep. Albano, like Ambassador Albert Del Rosario and Messrs. Pangilinan and Nazareno to be respectable businessmen of reasonable financial standing. He said that he was bothered by the insinuations of their being possible dummies to a foreign corporation that has allegedly control over PLDT.

Rep. Albano apologized for having mentioned Ambassador Del Rosario's name, as he happened to be included in the general information sheet that he has. He said that he does not question Ambassador Del Rosario's financial capability to invest in business; however, he expressed apprehension that the latter might not have known the scheme of Mr. Pangilinan. He admitted that he does not know both Messrs. Pangilinan and Nazareno, but that he had heard of a rumor that Mr. Pangilinan was allegedly involved in a PLDT transaction where some money exchanged hands under the table.

Rep. Del Mar said that he has never heard of any instance where Messrs. Pangilinan and Nazareno were accused of illegal acts or unsound business practices. As he expressed surprise that Rep. Albano has accused them of wrongdoings, he inquired on any law that they might have violated.

Rep. Albano answered that first, Mr. Pangilinan borrowed some US\$90 million from

Larouge, which is a creation of the FPC. He stressed that Mr. Pangilinan organized EIHI which in turn organized the MPHI, which is the organizer of the MPRI. On the other hand, he continued, the MPRI organized the MPC where Mr. Pangilinan is the Chief Executive Officer (CEO). He said that should Rep. Del Mar decide to join the investigation, then he will know Mr. Pangilinan better. However, he said that Rep. Del Mar is entitled to his opinion of Mr. Pangilinan.

Rep. Del Mar said that he could not see how the complex layers of corporations mentioned by Rep. Albano should be regarded as improper, much less illegal.

In response, Rep. Albano referred to his speech wherein he expressed apprehension that the FPC exercises decisive and crucial decisions on the financial activities of domestic corporations like the MPC and PLDT. He said that based on the report that he has, none of the corporations would state the participation of the FPC; however, he noted that in the annual report of Mr. Pangilinan, the latter had stated that PLDT is the largest and most diversified telecommunications company in the country. He added that the FPC has invested its interest in PLDT, which is controlled by the PTIC. He said that he will submit all the documents that will show how MPRI, which is under the control of Mr. Pangilinan, in turn controls PLDT, where Mr. Pangilinan is the CEO.

Rep. Del Mar stated that he does not doubt the report which Rep. Albano had read before the Body. However, he said that he could not see anything illegal in having a foreign corporation as a stockholder of PLDT. He asked whether a foreign person or corporation is allowed to become a stockholder of a public utility provided that the holdings do not amount to the controlling interest thereof.

Rep. Albano answered in the affirmative. However, he said that what he was stressing was the control and direction of the corporation. He pointed out that Mr. Cojuangco's investment in the PTIC is about 40%, but the rest, through multi-layering is owned by the FPC.

Rep. Del Mar expressed hope that Rep. Albano will keep an open mind with respect to other stockholders, in the same manner that the former believes that Ambassador Del Rosario, as a stockholder, will never allow himself to be involved in any illegal or improper activity. As he maintained that Messrs. Pangilinan and Nazareno are of the same stature as Ambassador Del Rosario, he opined that they will not allow themselves to be involved in any activity that will violate the corporate laws of the country, much less in activities that are criminal in nature.

Thereafter, Rep. Del Mar said that he hopes that the issue will be clarified in the investigation being sought by Rep. Albano so that he can be proven correct in his appraisal of the capabilities and moral standards of Messrs. Pangilinan and Nazareno. He emphasized that he gladly accepts the invitation to participate in the investigation because he personally knows said persons and he would like to know what information may be given which would prove his knowledge of their good reputation wrong. He added that he is most interested in one aspect of the investigation -- the probable violation on the part of the officials of the BCDA which is a government corporation. He maintained that if these officials should be proven remiss in their duties, then they should be administratively and criminally charged.

In reaction, Rep. Albano said that he respects the views of Rep. Del Mar. He thereafter quoted Mr. Pangilinan as having stated in the aforesaid report that PLDT is the largest single investment of MPC, if only to show that the latter which is a foreign corporation, has invested in PLDT.

At this juncture, Rep. Defensor (A.) relinquished the chair to Deputy Speaker Gonzalez.

At this point, Rep. Oscar L. Gozos sought recognition to interpellate Rep. Albano.

The Chair however stated that Minority Leader Carlos M. Padilla would be the next interpellator.

Rep. Padilla said that he was willing to yield the floor to Rep. Gozos.

INTERPELLATION OF REP. GOZOS

Upon recognition by the Chair, Rep. Gozos said that he was interested in the BCDA.

Rep. Gozos thereafter asked whether there is a chairman and a president in the BCDA. Rep. Albano said that in all corporations, the general practice is to have a chairman of the board for policy formulation and a president for management concerns.

Rep. Gozos then asked whether the enabling law regarding the BCDA provides that there should only be one person holding both the position of the chairman and president. Rep. Albano said that Rep. Gozos is correct if the BCDA charter provides it as so, as he noted that the Philippine Tobacco Administration's (PTA) general manager and chairman are one and the same person.

Rep. Gozos proposed that the investigation sought by Rep. Albano also look into the matter of two appointees in the BCDA, one as chairman and another as president, inasmuch as this can result in conflicting decisions. Rep. Albano welcomed the suggestion.

INTERPELLATION OF REP. PADILLA

Upon recognition by the Chair, Rep. Padilla first congratulated Rep. Albano for a brilliant presentation of an issue whose facts the Members would not have been informed about had they just relied on the media and other sources of information. He then asked whether Rep. Albano's privilege speech described how foreign companies have been able to establish corporations in the Philippines by using dummies.

Rep. Albano said that the FPC organized the following three foreign corporations all operating in Hong Kong: the FPIC and the Dutch corporations Intalink and Larouge which are 100% subsidiaries of the FPC. He added that after Mr. Pangilian was able to borrow money from FPC through Larouge, he established several Philippine corporations, thus hiding the participation of FPC.

After Rep. Albano affirmed that the grandfather corporation is FPC which is based in Hong Kong, Rep. Padilla asked which corporation provided the seed capital of the EIHI which is a domestic corporation. Pointing out that Mr. Pangilinan was lent \$90 million by the Dutch corporation Larouge and that the capital stock of the EIHI is P1 billion, Rep. Albano affirmed that said loan would give the link between FPC and EIHI.

Thereupon, Rep. Padilla inquired whether the aforecited loan had already been paid by Mr. Pangilinan or whether it had been written off by La Rouge.

Rep. Albano said that the loan seems to have been invested in the MPC which the FPC had saved when said company was about to be foreclosed. He added that Mr. Pangilinan is seemingly looking for funds to pay off his loan, although the same is

still in the drawing board, so to speak, because he is the CEO of FPC.

Rep. Padilla then inquired on the nature of business of EIHI and when its articles of incorporation were approved by the SEC. Saying that the EIHI had been incorporated probably before 1999 and had been organized to engage in business and real estate, Rep. Albano stated that he would furnish Rep. Padilla with copies of his files thereon.

Subsequently, Rep. Padilla sought more information on MPHI.

Rep. Albano affirmed that EIHI owns 57.68% of more than P500 million of the P915 million authorized capital stock of MPHI and pointed out that it was organized immediately after Mr. Pangilinan was able to obtain the aforecited loan from FPC. He said that FPC was incorporated some time when it had filed its general information sheet with the SEC on September 27, 2001. He also affirmed that MPHI was organized after EIHI was established, with an authorized capital stock of P915 million, 20% or P200 million of which is paid-up capital. He added that EIHI owns 57% of the capital stock of MPHI and has an authorized capital stock of P1 billion, 20% or P200 million of which is paid-up capital.

At this point, Rep. Padilla asked where EIHI got the money to invest in MPHI. Rep. Albano said that the aforecited loan of Mr. Pangilinan was lent to MPHI in which Mr. Pangilinan has 20 billion shares with a paid-up capital of P200 million.

Whereupon, Rep. Padilla inquired where EIHI sourced out the funds to organize MPHI.

In response, Rep. Albano referred Rep. Padilla to the chart in the powerpoint presentation and explained that the EIHI had infused 60% of its funds to organize MPHI, which, in turn, organized the Metro Pacific Resources, Inc.(MPRI) .

Rep. Padilla stated that he will not belabor the point, considering that the matter would be referred to the appropriate Committee wherein he will have more time to press for a more specific answer to his queries.

Rep. Albano pointed out that after the matter is referred to the proper Committee, Rep. Padilla's concerns regarding the viability of the EIHI to organize MPHI immediately after its own incorporation may be answered.

Aside from this, Rep. Padilla pointed out that there are still certain matters that he would like to find out during the forthcoming Committee hearings such as the primary business objective of the EIHI and whether this and other interlocking corporations are predominantly owned by Filipinos.

Rep. Albano stated that at the appropriate time, he will furnish Rep. Padilla with copies of the articles of incorporation of these companies as well as their by-laws.

On another matter, Rep. Padilla adverted to Rep. Albano's statement regarding the non-remittance by the MPC to the BCDA of its 22% share from the proceeds of the sales of PPTI units and lands.

Rep. Albano confirmed this and explained that this was the reason why the MPC had tried to negotiate for a dacion en pago so that it would be able to assign some of the lots, previously acquired from the BCDA, as payment to the latter in lieu of the failed remittances.

Rep. Padilla subsequently adverted to the pertinent statements of Rep. Albano, to wit: "MPC's officers and directors committed estafa for failing to make

remittances." He then inquired whether the BCDA had filed estafa cases against the MPC.

Rep. Albano replied in the negative. He stated that this was the reason why he pointed out in the latter part of his speech the BCDA's failure to file the appropriate charges and to protect the interests of the government. He disclosed that the MPC still has to remit more than P1.5 billion to the BCDA.

To a subsequent query, Rep. Albano admitted that since the BCDA is a government agency, whatever amount that it is entitled to receive from the MPC virtually belongs to the government. He pointed out that this revenue of the government is earmarked for the modernization of agriculture as well as for the Armed Forces. Inasmuch as the BCDA is a government agency, he pointed out that it is not only the BCDA but also the government that is being had by the MPC.

Whereupon, Rep. Padilla adverted to the MPC's failed remittances and inquired when the MPC should have started remitting the 22% share of the BCDA.

Rep. Albano stated that the remittances should have been forwarded about three to four years ago. As a result of the non-remittances, he explained that the MPC is now trying to enter into an agreement with the BCDA for a dacion en pago. As to the alleged connivance between the BCDA and the group of Mr. Pangilinan, he pointed out that this matter, and all other related matters, should be considered and proven during the forthcoming congressional investigations.

Whereupon, Rep. Padilla pointed out that in case collusion is shown and the Committee would recommend the filing of criminal charges, he inquired whether the charges would be filed only against Mr. Pangilinan, et al or would include the BCDA.

Rep. Albano replied that the charges would also include the BCDA because the act constitute a violation of the Code of Conduct and Ethical Standards for Public Officials and Employees as well as graft and corruption.

With the assurance that the matter will be brought to the appropriate Committee for a full-blown public hearing, Rep. Padilla terminated his interpellation and extended his congratulations to Rep. Albano for his exposé.

REFERRAL OF REP. ALBANO'S SPEECH

Thereupon, on motion of Rep. Fuentebella, there being no objection, the Body referred Rep. Albano's speech to the appropriate Committee.

MOTION TO ADJOURN

Whereupon, Rep. Ted Failon moved that the session be adjourned for lack of quorum.

SUSPENSION OF SESSION

On motion of Rep. Fuentebella, the Chair suspended the session at 6:12 p.m.

RESUMPTION OF SESSION

At 6:13 p.m., the session was resumed.

EXTENSION OF THE PRIVILEGE HOUR

Upon resumption of session, on motion of Rep. Fuentebella, there being no objection,

the Body extended the Privilege Hour for another 20 minutes.

QUERY OF REP. AQUINO (A.)

Upon recognition by the Chair, Rep. Agapito A. Aquino inquired what had happened to Rep. Failon's pending motion.

The Chair replied that the motion had been withdrawn.

MANIFESTATION OF REP. FAILON

Thereupon, Rep. Failon manifested that he had withdrawn his previous motion.

Subsequently, the Chair recognized Rep. Emilio C. Macias II to deliver his privilege speech.

PRIVILEGE SPEECH OF REP. MACIAS

Rep. Macias initially adverted to Section 8, Article X of the Constitution, to wit: "Sec. 8. The term of office of local elective officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms."

Rep. Macias pointed out that the three-term limit rule enshrined in the afore-quoted constitutional provision is reiterated in Section 43(b) of RA No. 7160, otherwise known as the Local Government Code of 1991, to wit: "Section 43. Term of Office (b) No local elective official shall serve for more than three (3) consecutive terms in the same position."

Rep. Macias underscored that this constitutional and statutory provision is widely interpreted to mean that any local elective official is prohibited from serving a fourth term immediately following three consecutive terms. He explained that this is the reason why local officials who have already served for three consecutive terms do not seek a fourth term.

Rep. Macias however pointed out that on November 12, 2002, the Supreme Court decided to allow Mayor Edward Hagedorn of Puerto Princesa City, Palawan, to serve a fourth term immediately following his three consecutive terms. He subsequently pointed out that this was the reason why he decided to speak out his mind that day inasmuch as the Supreme Court decision is incongruous with Section 8, Article X of the Constitution.

Rep. Macias thereafter related that Mayor Hagedorn was elected in the 1992, 1995 and 1998 elections and had served a full three consecutive terms as mayor of Puerto Princesa city. He pointed out that Mayor Hagedorn did not run for mayor during the 2001 elections apparently due to the aforecited constitutional and statutory prohibition.

Rep. Macias likewise related that in the second half of this year, the incumbent Mayor Dennis Socrates lost to Mayor Hagedorn by 3,018 votes in the ensuing recall elections. He pointed out that before the proclamation of the winner of that recall election, the qualification of mayor-elect Hagedorn was raised before the Supreme Court, which later on came up with the decision that presented a problem to him as a Member and as Chairman of the Committee on Local Government.

Rep. Macias explained that he was not questioning Mayor Hagedorn's competence since he has known him to be a recipient of several awards for outstanding performance in

local governance. What he would only like to point out, he said, is Mayor Hagedorn's qualification to serve as mayor of Puerto Princesa City for the period included in the term that started on June 30, 2001 to noon of June 30, 2004. In effect, he said that Mayor Hagedorn's election will make him serve a fourth consecutive term which is constitutionally prohibited.

Rep. Macias thereafter cited the definition of the word "term," on the basis of jurisprudence. He explained that a "term" refers to the period during which an elected officer or appointee is entitled to hold office, perform his functions and enjoy its privileges and emoluments. He subsequently cited the case of Paredes v. Abad, 56 SCRA 522, to illustrate his point.

Whereupon, Rep. Macias explained that "term" is entirely different from "tenure" which represents the actual period during which the incumbent officer held office and may be shorter than his term for reason beyond his control. He noted that the term of office covered by the 2002 recall elections is up to June 30, 2004, or the length of term which Mayor Hagedorn is prohibited from serving since he had occupied the same position for three consecutive terms.

Rep. Macias expressed confidence in his position because no less than Supreme Court Chief Justice Hilario Davide Jr., who was a framer of the 1987 Constitution and the proponent of the constitutional provision at hand, had expressed a similar view in his dissenting opinion which Rep. Macias subsequently quoted. He pointed out that if no one will question the Supreme Court ruling, then theoretically, Mayor Hagedorn can still run for two more terms because the present period he is serving will end on June 30, 2004 which will constitute only his "first term."

Whereupon, Rep. Macias said that he was gravely alarmed by the warning aired by the Chief Justice in his dissenting opinion which stated that "A declaration that Hagedorn is qualified to seek reelection in a recall election to remove the mayor who was elected for a term for which Hagedorn was constitutionally and statutorily disqualified to be reelected to or to hold is to subvert the rationale of the three consecutive term rule and make a mockery of it. Worse, it abets destructive endless partisan politics and unsound governance. An elective official who is disqualified to seek a fourth term because of the three term limit but obsessed to hold on to power would spend the first year of the fourth term campaigning for the recall of the incumbent in the second year of said term. This would not be a problem if the disqualified official has a solid following and a strong political machinery."

In closing, Rep. Macias expressed the hope that the Chief Justice's stern warning will serve as a guiding light for the members of a possible constituent assembly to strive to draft the laws in crystal clear language and free from ambiguities so as not to leave any room for judicial interpretation.

INTERPELLATION OF REP. NACHURA

Upon recognition by the Chair, Rep. Antonio Eduardo B. Nachura stated that he had heard Rep. Macias clearly state that the latter is a possible member of a constituent assembly that will amend the Constitution. He inquired whether Rep. Macias favors the immediate revision of the Constitution. He also inquired whether Rep. Macias favors a constituent assembly as a mode of amending the Constitution.

Rep. Macias replied in the affirmative to both questions.

Thereupon, the Chair recognized Rep. Arthur D. Defensor to interpellate Rep. Macias.

INTERPELLATION OF REP. DEFENSOR (A.)

To the initial queries of Rep. Defensor, Rep. Macias affirmed that aside from Chief Justice Davide, Justice Adolf Azcuna also voted against the majority decision but he did not have a copy of Justice Azcuna's dissenting opinion. He said that he delivered a privilege speech because he disagrees with the majority decision and the premises upon which the decision was based.

In addition, Rep. Macias claimed that the dissenting opinion agreed with his views, stating that he had not read the dissenting opinion before reaching his own opinion on the matter. He disclosed that it was only during his research that he found out that there were two dissenting views and that if the wordings of his speech approximated the wordings of Chief Justice Davide, it could be due to the fact he and the Chief Justice were both members of the 1971 Constitutional Convention.

On whether he believes that the majority opinion was wrong, Rep. Macias replied that he has a different interpretation of the matter but he respects the majority decision. He underscored that any revisions to the Constitution should be done in clear language so that nobody will interpret the constitutional provisions differently from the intent of the framers of the Constitution.

Rep. Macias recalled that based on the Journal of the Constitutional Commission (CONCOM), dated sometime in August 1986, Commissioner Christian Monsod had insisted that after three terms, a local elective official should not qualify anymore for the same position at any time. He however cited the amendment introduced by then Commissioner Davide that a local elective official can start another three year term after a break of one term.

On whether the majority of the Justices did not consider the intent of the framers of the Constitution when they decided to rule in favor of Mayor Hagedorn, Rep. Macias surmised that this seems to be the case. He reiterated the statement of Chief Justice Davide in his dissenting opinion that the majority was looking at the "elections" instead of the intention to serve a term and that the prohibitive term is the one that follows the third consecutive term.

As a rejoinder, Rep. Defensor asked Rep. Macias to likewise assume that the majority in the Supreme Court also considered the intent of the framers of the Constitution.

In reply, Rep. Macias surmised that if the Chief Justice were not present during the Supreme Court deliberations on the instant case, then the majority of the Justices who voted in favor of Mayor Hagedorn could have missed the intent of the proponent of said constitutional provision. He emphasized that the best evidence of the intent of the framers of the Constitution is the proponent himself, former Commissioner, now Chief Justice Davide. He recalled that the CONCOM deliberated on the Davide amendment during the presentation of the CONCOM Committee on Local Government's report.

Rep. Macias admitted to not having the intention of questioning the matter before the Supreme Court. He clarified that he only wanted to express himself as a Member of Congress and to assure that any interpretation on the matter in the future will be based on legislative intent.

On whether he agrees that the intent of the framers of the Constitution is taken into consideration in case a provision of the law is not clear, Rep. Macias replied in the affirmative.

Thereafter, Rep. Defensor opined that Rep. Macias spoke on the matter because he wants the legislature to take note of his personal opinion in case it comes up with

a remedial legislation on the matter.

In reaction, Rep. Macias inquired whether Rep. Defensor, whom he said was doing well as governor of Iloilo, did not run for governor anew in view of the constitutional prohibition.

Rep. Defensor replied in the affirmative thereto. He however qualified that they have varying views on the matter, stating that it is his opinion that the prohibitive fourth term refers to the official's reelection immediately on the fourth term. He further remarked that while he may not agree with what Rep. Macias says, he is willing to die for the latter's right to disagree.

MANIFESTATION OF REP. ROMAN

Upon recognition by the Chair, Rep. Antonino P. Roman manifested his awareness that he was to interpellate Rep. Macias at the risk of being accused of violating the rule which states that he should not comment on any case pending before the court so he will not be seen as trying to influence or strengthen any case. He then stressed that his questions are not intended to affect or influence the Supreme Court. This, as he expressed belief that nothing he will say could possibly influence the High Tribunal.

Thereupon, the Chair recognized Rep. Roman to interpellate Rep. Macias.

INTERPELLATION OF REP. ROMAN

On the questions of Rep. Roman, Rep. Macias stated that 11 justices voted in favor of Mayor Hagedorn while two dissented. He said that according to the majority decision, Mayor Hagedorn served for three terms, beginning in 1992, 1995 and 1998, respectively. He also deduced that in a way, the majority had ruled that when Mayor Hagedorn won again for reelection, he had served his second term and later, his third term, when he won the mayoralty post for the third time. He also surmised that even the Mayor knew that his third term was the limit of his service to the city because he did not run for reelection during the 2001 elections.

Rep. Roman added that he does not remember the dates but was glad that Rep. Macias had confirmed that Mr. Hagedorn won his first and second terms and ran again for a third term. He then asked whether Mr. Hagedorn ran for governor of Palawan and lost.

Rep. Macias replied that he does not know whether Mr. Hagedorn ran for governor or for some other positions.

Rep. Roman said that he knows for a fact that Mr. Hagedorn did run for governor and lost. However, he pointed out that after he lost for the governorship, there was a recall proceeding through the preparatory recall assembly that culminated in a recall election. He then asked whether it is correct that Mr. Hagedorn won in the recall election.

Rep. Macias replied that Mr. Hagedorn won by 3,018 votes over the incumbent Mr. Socrates.

Rep. Roman noted that the Supreme Court by a majority of 11 justices had ruled that Mr. Hagedorn had only run for three elections instead of four. He then asked whether this was in effect the Supreme Court decision.

Rep. Macias agreed with Rep. Roman's observation.

Rep. Roman explained that from the point of view of mathematical sequence, the last victory of Mayor Hagedorn was the fourth time he would serve. However, he opined that the Supreme Court had ruled that it was his first term. He asked whether the Supreme Court did not count the recall election for purposes of determining the disqualification of Mayor Hagedorn. He said that if it did, it would be in effect, his fourth term. He added that the Supreme Court said that for purposes of determining whether or not Mr. Hagedorn is disqualified for the three-term limit, the recall election cannot be counted. Moreover, he said that the Supreme Court did not rule that this is his first term which makes it clear even from an arithmetical point of view that this is obviously his fourth term, although a recall election was not counted in deciding whether or not he was still qualified.

In reply, Rep. Macias explained that the majority decision states that Mr. Hagedorn did not run and that the prohibition they were talking referred to "elections" and not "terms." He pointed out that the decision of the 11 justices of the Supreme Court was that Mayor Hagedorn cannot run for reelection for the fourth term and that the election referred to was the election of 2001.

On whether the term of Mr. Hagedorn is one whole term, Rep. Macias replied that the term started on June 30, 2001 and will end on 2004. He added that this is the prohibited term of Mr. Hagedorn.

Rep. Roman said that the dates are irrelevant. He inquired whether or not, according to the Supreme Court, the last victory of Mr. Hagedorn, even if he will only serve for one-year and-a-half, will be considered one term. He likewise asked whether this was not established in said decision.

Rep. Macias said that it was not indicated in the ruling and assumed that the justices are wiser than him, although he would consider it a term.

Rep. Roman pointed out that if Mr. Hagedorn should be disqualified, then Rep. Macias must count the one-year and-a-half as a term because it is his fourth term which is contrary to the Supreme Court ruling that it is just a first term.

Rep. Macias clarified that the Supreme Court did not base its ruling on term of office since the justices avoided that and instead used the discussion of the Committee report during the CONCOM, wherein they would decide whether to provide limits to Senatorial and Congressional candidates.

Rep. Macias said that he wants to clear the matter so that the people will understand the discussion. He then said that somebody had approached him and asked that the matter regarding the local officials should be left during the discussion on the report of the Committee on Local Government. He revealed that it was in July 1987 during the discussion on local officials, when the two alternative views were decided upon. He then discussed one of the alternatives which was to forever disqualify Congressmen, after a third term, and Senators, after a two-term limit or to have them wait for one more term. This discussion, he said was used and is precisely what Chief Justice Hilario Davide is pointing out in his dissenting vote.

Rep. Roman thanked Rep. Macias for the information. He however wished that the latter's answers had addressed his question.

Rep. Macias expressed hope that his answers will satisfy Rep. Roman.

Rep. Roman stressed that Chief Justice Davide's dissenting vote should be noted. However, he pointed out that as far as votes are concerned, the Chief Justice's vote is just one. Although, the Chief Justice may be *primus inter pares* or first among equals, in deciding cases in his division, *en banc*, or even under the Constitution

that he himself helped in crafting, his vote is only counted as one.

Rep. Macias underscored that the reason he brought up the fact that it was Chief Justice Davide who dissented was to emphasize the quality of that vote and not the quantity.

Rep. Roman said that he cannot speak for the other justices. However, he stressed that being a Chief Justice does not ensure that his vote is of better quality than any of the associate justices. He added that even under the Constitution, these votes count equally as one vote for one justice.

Rep. Macias said that he understands and agrees that Chief Justice Davide has one vote. He said that he cited quality because not one of the eleven justices was present during the deliberation of this particular provision in the Constitutional Commission at the time that the issue was decided. As a matter of fact, he said that the Chief Justice was the proponent of this particular provision, and who would be a better authority than the Chief Justice himself. Stating that he was not trying to turn back the decision of the Supreme Court, he said that he was only expressing his opinion on the matter so that when it is time to amend the Constitution, if Congress has the chance to do it, the matter would then be clear.

Unfortunately, Rep. Roman pointed out that in the country's constitutional system, it is not the Chief Justice alone who decides Supreme Court cases. Adverting to the case of Mr. Hagedorn, he averred that this new victory of Mr. Hagedorn as mayor is already his fourth. He then inquired whether it is correct to say that the Supreme Court did not disqualify him despite his fourth term.

Rep. Macias replied that the Supreme Court had considered it the first term of the next batch of three.

Rep. Roman inferred from Rep. Macias' reply that the Supreme Court did not disqualify Mr. Hagedorn because it ruled that it is his first term. He said that the decision makes no sense unless the Supreme Court did not count the fourth term for purposes of reckoning his disqualification. He added that for purposes of disqualification, a recall election is not counted and therefore there is logic to the Supreme Court decision. He then asked whether Mr. Hagedorn is disqualified because of the recall election. He said that the answer would be "No" since the recall election is considered the first term again.

In his rejoinder, Rep. Macias clarified that a "term" is constituted by three years and to illustrate, it starts on June 30 of a particular year and ends on June 30 three years later. He reiterated that the Constitution only allows elective officials to serve three consecutive terms and are prohibited from serving a fourth term or another three years. He pointed out that if there is any ambiguity in the law, the Members should amend the pertinent provision, possibly as delegates of the proposed constituent assembly.

Thereupon, Rep. Enrique T. Garcia Jr. sought the permission of the Chair to interpellate Rep. Macias.

REMINDER FROM THE CHAIR

The Chair however pointed out that the Privilege Hour had already expired.

EXTENSION OF THE PRIVILEGE HOUR

Whereupon, on motion of Rep. Fuentebella, there being no objection, the Body

extended the Privilege Hour for another ten minutes.

PARLIAMENTARY INQUIRY
OF REP. GARCIA (E.)

Upon recognition by the Chair, Rep. Garcia first inquired whether he can also interpellate the previous interpellator of Rep. Macias.

The Chair replied in the negative. He pointed out that the Rules provides that interpellations can only be asked of the person who delivered a privilege speech.

Rep. Garcia (E.) thereafter stated that some of his questions would have to dwell on some matters that had been brought about by the previous interpellator. He thereafter proceeded with his interpellation.

INTERPELLATION OF REP. GARCIA (E.)

Whereupon, Rep. Garcia adverted to Rep. Macias' statements that he was more inclined to support the dissenting opinion of Supreme Court Justice Davide on the matter. He pointed out that insofar as the majority decision is concerned, the majority of the justices had also cited their reasons regarding the term of office of Mayor Hagedorn.

Rep. Macias pointed out that the basis for the majority decision was that what was prohibited by the Constitution was an immediate reelection.

Rep. Garcia agreed with this observation. He added that majority of the Justices also based their decision on the fact that there was an interregnum or intervening elections held during 2001 wherein Mayor Hagedorn did not run for any specific elective position.

In reply, Rep. Macias explained that on the basis of the majority decision that the situation does not involve immediate reelection, he pointed out that the Constitution does not talk about election or re-election but of terms of office which only allows elective officials to serve three but not four consecutive terms.

Rep. Garcia likewise pointed out that the majority of the justices also based their decision on the fact that Mayor Hagedorn was not the sitting mayor from June 30, 2001 up to the time that he was proclaimed last week or more than a year later.

Rep. Macias however replied that Mayor Hagedorn is prohibited from serving as mayor for a fourth consecutive term.

Whereupon, Rep. Garcia noted that the term of office of local officials such as Congressmen is only for three years and for Senators, six years. He pointed out however that there have been cases wherein a senator, such as the case of Senators and former Congressmen John Osmena, Juan Ponce Enrile and Heherson Alvarez, who were not qualified anymore to run for a third term, had run instead as Congressmen and after serving their term for three years ran again as Senators. He pointed out that their terms of office were for six years but by allowing just one election to pass or after serving as Congressmen for three years, they were able again to run for public office as Senators. While he pointed out that this was not mentioned in the Supreme Court ruling, this could have been another basis for the majority of the justices to vote in favor of Mayor Hagedorn's case.

Rep. Macias pointed out that this not what he understands about the meaning of "term of office". He likewise expressed doubt on whether the majority of the justices can

use this as basis for ruling in favor of Mayor Hagedorn's case.

Rep. Garcia stated that perhaps the justices can take up this particular matter in case of a motion for reconsideration of the Supreme Court ruling.

Whereupon, Rep. Macias underscored that the issue on hand deals with Section 8, Article X of the Constitution which only talks about local officials. This could be the reason, he said, why the Senators are excluded in the decision of the justices of the Supreme Court.

Rep. Garcia however pointed out that part of the Supreme Court's decision states that in a special election for Senators, as well as of Members of the House of Representatives, although the term of office of the winning Senator or Member of Congress is only for the unexpired portion of the term of office which is less than the full term, the same would have been considered as one term already. He pointed out that the Supreme Court decision states this very clearly.

Rep. Macias agreed with this observation.

Thereupon, Rep. Garcia noted that on the question of a consecutive full term insofar as Mayor Hagedorn is concerned, the Supreme Court ruling was not unanimous inasmuch as the decision was 11-2.

Rep. Macias agreed with this point.

Whereupon, Rep. Garcia inquired on the ruling that Mr. Hagedorn's term is considered as one term by virtue of winning the recall election.

Rep. Macias replied that he does not know whether there was any voting on this particular issue.

Inasmuch as this was not the immediate reelection that had already passed, he said that some people have claimed that Mr. Hagedorn is qualified to run in the special election because what he was prohibited from running in was for immediate reelection.

Rep. Macias expressed belief, at the risk of being called ignorant of the law, that what the Constitution prohibits is serving the term but not running for reelection.

Rep. Garcia pointed out that the Supreme Court decision was 11-2. At the very least, he said that this shows that the 11 Justices had declared that Mr. Hagedorn would not be serving the fourth consecutive term but what is considered as one term, and his first term as Mayor.

Rep. Macias replied that this was not what he said and clarified that the majority decision was based on the "no immediate reelection" rule. He added that they allowed Mr. Hagedorn to run and serve this term because they do not believe that it was his fourth term.

Then quoting the Supreme Court decision on the case, Rep. Garcia underscored that "a necessary consequence of the interruption of continuity is the start of a new term following the interruption." He claimed that this meant that the majority did not consider Mr. Hagedorn's term as his fourth consecutive term. He further quoted the same decision, to wit: "An official elected in recall elections serves the unexpired term of the recalled official. This unexpired term is in itself one term for the purpose of counting the three-term limit." He pointed out that this was clear from the deliberations in the Constitutional Commission wherein it was asked whether the

one who wins in a special election for Congressman or Senator would be considered as serving the unexpired portion, although it would be considered as a term. He then stressed that the majority decision penned by Justice Carpio had stated that although the discussion referred to special elections for Senators and Representatives, the same principle applies to a recall election of local officials.

Rep. Macias inquired whether said discussion was included in the report of the Committee which was made in July, during the time of the Constitutional Commission. Rep. Garcia replied that the same was adopted at that time.

Rep. Macias affirmed this point and added that this was because the Commissioners disregarded the part of the discussion on the report of the Committee on Local Government in which Chief Justice Davide participated that August.

Rep. Garcia noted that the same principle that defines "one term" and which applies to special elections for Senators and Congressmen also applies to recall elections for local officials. More explicitly, he said, it explains that an elected local official who serves a recall term "can serve for more than nine consecutive years comprising the recall term plus the three regular full terms." This refers to three regular full terms of three years each, he added.

He underscored that said principle is so explicit, hence any local official who runs in a recall election should be forewarned that if he wins, he should know that the recall term in itself is actually one term. This, he added, is the inherent limitation Mr. Hagedorn or anybody who runs in a recall election should know.

Rep. Macias agreed thereto, even as he repeated his definition of the word "term"; it is a period which cannot be diminished nor increased; it starts in June 30 and ends three years after on the same date. He added that an official can serve within the term and this is considered a tenure.

Adverting to the question of Mr. Hagedorn's fourth term, Rep. Garcia noted anew that the Supreme Court decision was 11-2, although in the question of whether a recall term is considered as one term, the vote was unanimous. This shows that Chief Justice Davide's and Justice Azcuna's view that it should be Mr. Hagedorn's fourth consecutive term was not followed, he said, and what made it absurd was that it was not even considered the latter's first term.

Rep. Macias replied that this had been settled because this is already part of jurisprudence.

Noting a previous interpellation, Rep. Garcia claimed that it would be illogical to count 1,2,3 and 1. If the succeeding term is not the fourth term, he asked whether it would be the first, to which Rep. Macias agreed. Rep. Macias explained that this is because one can then start another series of three terms.

MANIFESTATION OF REP. CHATTO

Whereupon, Rep. Edgar M. Chatto manifested his intent to interpellate Rep. Macias.

The Chair then stated that the Privilege Hour had expired anew.

EXTENSION OF THE PRIVILEGE HOUR

On motion of Rep. Fuentebella, there being no objection, the Body extended the Privilege Hour for five minutes.

INTERPELLATION OF REP. CHATTO

Upon recognition by the Chair, Rep. Chatto remarked that he had not read the Supreme Court ruling although he believes in the fundamental principle that Supreme Court decisions become part and parcel of the laws of the land. He stated that his question pertains to allowing a previous mayor or any elected official holding a particular position to serve for the fourth term in determining the succession of who will hold office. He noted that the discussions had focused on the principle of recall alone and that following the argument of Rep. Macias, the same would also apply in special elections. He then inquired whether the prohibition on the term of office would apply in the case of a Congressman who, for instance, had held a position for three consecutive terms but was supposedly disqualified from holding the fourth term and then participated in a special election for the vacancy in the congressional office.

Rep. Macias replied that he took the floor precisely to emphasize the risks such situations may bring. He opined that in the situation cited by Rep. Chatto, the Congressman running for a fourth term may be encouraged to simply shoot the incumbent so he could run for said position. Nonetheless, he observed that the Supreme Court decision may be the leading blow as far as special elections for recall are concerned because this was all that was said in the decision. He claimed that there may be other cases like that of a governor who had exhausted his three consecutive terms and then runs for vice governor and succeeds to be the governor for a fourth term. He expressed doubt whether the same Supreme Court ruling would apply to this case because it is not exactly the same as Mr. Hagedorn's case.

Rep. Chatto in turn cited the case of a mayor who runs for vice mayor, wins again within the same term in a recall election, but eventually ends up occupying the position for the fourth term. This is being practiced at present, he said, that is why remedial legislation should be passed to address the same. He added that certain Members had filed amendments in this regard.

Rep. Macias opined that such situation would not affect other cases. He cited that Congress had just passed on Third Reading a bill that will prevent a third-term governor from running for vice governor and trying to succeed as governor in the event of a vacancy during the prohibitive term. Unless the case presented is exactly the same as Mr. Hagedorn's, he claimed that the Supreme Court could not restate its present ruling. Even if it were so, he said that the Supreme Court even reverses its own decisions subsequently.

In response to Rep. Chatto's query, he maintained that the example the latter had cited would not fall under the rule for special elections because said example pertains to a regular election wherein the congressman ran for vice governor because he was prohibited from running for a fourth term for the same position. The instant Supreme Court ruling will not apply in this case because it pertains to a different issue, he said.

Rep. Chatto inquired on the possibility of proposing amendments including prohibitions on participation in recall or special elections or elections for succession.

Rep. Macias replied that the Supreme Court did not base its ruling on the Local Government Code but on the Constitution. He stressed that the House is not in any position at present to amend the Charter, unless it converts itself into a constituent assembly for the purpose of introducing new provisions thereto.

INTERPELLATION OF REP. GOZOS

Upon recognition by the Chair, Rep. Gozos noted Rep. Macias' view that a term is a period that cannot be divided at all.

Rep. Macias explained that a term is a period which cannot be diminished or increased; it is a definite period covering one date to another and may comprise various tenures.

On further query, he pointed out that a term can be served at different times although it will still be the same term. In other words, he said that there may be two officials who may have tenures within one term, and for both officials, it will be considered as one term each.

Adverting to the case of the Palawan officials, Rep. Gozos inquired whether Mr. Socrates will serve one term and Mr. Hagedorn will serve another term.

Rep. Macias replied that both officials will serve one term even if they had tenures of a few years.

As to what word could be used to categorize Mr. Hagedorn's term, Rep. Macias explained that the period which starts from June 30, 2001 up to June 30, 2004 would be called a term. Within that term, he said that Mr. Socrates had served a tenure, although when the terms are counted, it would appear that he had served for only one term, or what is called tenure within a term. The next time Mr. Socrates runs in an election and wins, he would then be serving his second term because he had served the first term, although it had only a tenure for him.

Rep. Gozos noted that there has been an interruption because Mr. Hagedorn had won in the recall elections and that pursuant to the ruling of the Supreme Court, Mr. Socrates could run for three consecutive terms in view of said interruption.

Rep. Macias stated that this view was not in consonance with the ruling of the Supreme Court because he believes that Mr. Socrates had a tenure which constituted his term. Thus, he said that if Mr. Socrates runs and wins in the year 2004 elections, he would be serving his second consecutive term.

Rep. Gozos next asked whether in the event of a recall election wherein another candidate wins, said candidate would be serving his first term or a new term.

Going by the recent ruling of the Court, Rep. Gozos asked whether indeed Mr. Socrates had run for another term because of the interregnum and whether the term would be the term of Mr. Hagedorn or that of Mr. Socrates.

Rep. Macias replied that both Messrs. Hagedorn and Socrates will have served an individual term but expressed alarm over the fact that the former was allowed to continue another term. In this regard, he said that Mr. Hagedorn can serve more than three consecutive terms by means of a recall election. He added that this cycle may become endless and would pose a danger to the three-year term limit provided by the Constitution.

In ending his interpellation, Rep. Gozos suggested that the Body should enact laws that are clear and concise.

REFERRAL OF REP. MACIAS' SPEECH

Thereafter, on motion of Rep. Fuentebella, there being no objection, the Body referred the speech of Rep. Macias to the Committee on Constitutional Amendments.
BUSINESS FOR THE DAY:

COMMITTEE REPORT NO. 763
ON HOUSE BILL NO. 455

On motion of Rep. Fuentebella, there being no objection, the Body considered on Second Reading House Bill No. 455 as embodied in Committee Report No. 763 and reported out by the Committee on Higher and Technical Education.

Upon direction of the Chair, the Secretary General read the title of the Bill, to wit:

"AN ACT TO STRENGTHEN THE UNIVERSITY OF THE PHILIPPINES AS THE NATIONAL UNIVERSITY."

As copies of the Bill had been distributed to the Members, on motion of Rep. Fuentebella, there being no objection, the Body dispensed with the reading of the text of the measure without prejudice to its insertion into the Record of the House.

Thereafter, the Chair recognized Rep. Harlin Cast. Abayon to sponsor the measure.

INSERTION OF CERTAIN SPONSORSHIP
SPEECHES INTO THE RECORD

At this point, on motion of Rep. Abayon, there being no objection, the Body approved to insert into the Record the sponsorship speeches of Reps. Antonio Eduardo B. Nachura, Aniceto G. Saludo, Abayon and Rolex T. Suplico.

TERMINATION OF THE PERIOD
OF SPONSORSHIP AND DEBATE

There being no interpellations and speeches en contra, on motion of Rep. Fuentebella, there being no objection, the Body terminated the period of sponsorship and debate.

Thereafter, on motion of Rep. Fuentebella, the Body proceeded to the period of amendments.

MANIFESTATION OF REP. ABAYON

At this point, Rep. Abayon stated that the Committee had already submitted its amendments on House Bill No. 455 to the Committee on Rules.

MOTION OF REP. FUENTEBELLA

Whereupon, Rep. Fuentebella moved that the Body close the period of Committee and individual amendments.

SUSPENSION OF SESSION

On motion of Rep. Fuentebella, the session was suspended at 7:24 p.m.

RESUMPTION OF SESSION

At 7:25 p.m., the session was resumed.

COMMITTEE AMENDMENTS

At this point, as proposed by Rep. Fuentebella, there being no objection, the Body approved the following Committee amendments to House Bill No. 455 as submitted by

the Committee on Higher and Technical Education:

1. On page 1, Section 1, line 2, to delete the figure 2001 and in lieu thereof to insert "2002";
2. On page 2, Sections 4, lines 17 to 18, to insert a period (.) after the word "universities" and to subsequently delete the phrase "and regional units";
3. On page 2, Section 3, Subsection 5, line 10, to insert a comma (,) after the word "leadership" and to delete the subsequent phrase "and leadership for service";
4. On page 2, Section 8, line 31, to delete the period (.) after the word "services" and to insert the phrase WHILE MAINTAINING ITS STANDARDS OF EXCELLENCE;
5. On page 3, Section 9, line 3, after the word "Philippines" to insert the word SYSTEM;
6. On page 3, Section 9, line 8, between the words "Higher" and "Education", to insert the words AND TECHNICAL;
7. On the same page and section, Subsection 9, line 20, after the word "least", to delete the word and figure "three (3)" and in lieu thereof to insert the word and figure FOUR (4);
8. On the same page, section and subsection, lines 23 to 24, after the word "of", to delete the phrase "this Act is promulgated" and in lieu thereof to insert the words THE EFFECTIVITY OF THIS ACT;
9. On the same page, section and subsection, line 25, to delete "for" after the word "provided"; to delete "the" after the word "in" to read ...AS PROVIDED IN EXECUTIVE for the same ORDER NO. 204-A...;
10. On page 4, Section 10, line 8, after the word "Regents", to insert a period (.) and to delete the phrase "and the President insofar as authorized by the Board";;
11. On the same page and section, line 10, after the word "Board", to insert a period (.) and delete the words "and University President";
12. On the same page and section, lines 15 and 16, to delete the entire Subsection 3: "(3) To approve the institution, merger or abolition of academic programs" and in lieu thereof to insert a new Subsection 3: (3) TO APPROVE THE CREATION, INSTITUTION, MERGER OR ABOLITION OF ACADEMIC UNITS AND PROGRAMS UPON RECOMMENDATION OF THE UNIVERSITY COUNCIL THROUGH THE PRESIDENT OF THE UNIVERSITY;
13. On the same page and section, Subsection 5, line 21, after the word "committee", to delete the phrase "of the Board of Regents" and to insert the words CREATED BY THE PRESIDENT OF THE UNIVERSITY;
14. On page 5, same section, Subsection 10, lines 1 to 2, after "community", to insert a comma (,) and the phrase SUBJECT TO THE GUIDELINES, QUALIFICATIONS AND/OR STANDARDS SET BY THE BOARD;
15. On page 5, Section 10, Subsection 11, lines 5 to 7, after the word "staff", to delete the phrase "subject to the provisions of the Revised Compensation and Position Classification System and other pertinent budget and compensation laws";

16. On page 5, same section, Subsection 12, lines 20 to 22, after "70", to delete the entire phrase "Provided further, that in case of extension of tenure of the University President beyond the compulsory retirement age, such extension shall be subject to the approval of the President of the Philippines";
17. On page 6, same section, after line 28, to add a new subsection (20) to state as follows: TO EXERCISE SUCH OTHER POWERS AS MAY BE NECESSARY AND PROPER TO CARRY OUT THE OBJECTIVES OF THIS ACT;
18. On the same page, Section 11, to delete the word "all" after the preposition "of" on line 29; to insert the word ACTUAL before the word "members" on line 29; to delete the phrase "holding office at the time the meeting is called" after the word "Regents" on line 30 for the section to state: A SIMPLE MAJORITY OF THE ACTUAL MEMBERS OF THE BOARD OF REGENTS SHALL CONSTITUTE A QUORUM;
19. On page 7, Section 14, at the beginning of line 12, before the words "University Council", to add the words UNIVERSITY A;
20. On page 8, Section 16, line 1, after the word "University", to delete the period (.) and in lieu thereof to insert the phrase SUBJECT TO THE GUIDELINES, QUALIFICATIONS AND/OR STANDARDS SET BY THE BOARD OF REGENTS.;
21. On the same page, Section 17, line 12, after the word "college", to delete the period (.) and in lieu thereof to insert the phrase SUBJECT TO THE GUIDELINES, QUALIFICATIONS AND/OR STANDARDS SET BY THE BOARD OF REGENTS.;
22. On page 8, Section 17, line 14, between the words "political" and "of", in lieu of the phrase "opinions or affiliations," to insert the phrase AFFILIATIONS OR OPINIONS;
23. On page 8, Section 18, line 16, to delete the conjunction "and" after the word "members" and to insert the words AS WELL AS THE ACADEMIC; on line 17, to insert REPS after the word "staff", to delete "as such" after the word "exempt," for the entire Section 18 to state: FACULTY MEMBERS, AS WELL AS THE ACADEMIC RESEARCH, EXTENSION AND PROFESSIONAL STAFF (REPS), OF THE UNIVERSITY SHALL BE EXEMPT FROM ANY CIVIL SERVICE EXAMINATION OR REGULATION AS A REQUISITE TO APPOINTMENT;
24. On the same page, Section 19, Subsection 1, line 20, between the words "State" and "subsidy", to delete the word "provides" and in lieu thereof to insert the phrase SHALL PROVIDE;
25. On the same page and section, line 21, between the words "of" and "through" to delete the word "cash" and in lieu thereof to insert the phrase LUMP SUM AMOUNT;
26. On page 9, Section 19, to delete the entire Subsection 3. "(3) The Board of Regents shall plan, design, approve and/or cause the implementation of financial mechanisms, such as joint ventures, long-term leases, fully-owned subsidies, securitization and outright sale, to give the University the most advantageous position in generating revenues and other resources from the land grants and other real property entrusted by the Filipino people to their national university; Provided, That such mechanisms and arrangements shall sustain and protect the environment, and be exclusive of the academic core zone of the U.P.'s campuses, and be for such periods of time as may be determined in accordance with law.", and in lieu thereof, to insert: (3) THE BOARD OF REGENTS SHALL PLAN, DESIGN, APPROVE AND/OR CAUSE THE IMPLEMENTATION OF FINANCIAL MECHANISMS, SUCH AS JOINT VENTURES, LONG TERM LEASES, SUBSIDIARIES, SECURITIZATION AND DISPOSITION TO GIVE THE UNIVERSITY THE MOST ADVANTAGEOUS POSITION IN GENERATING REVENUES AND OTHER RESOURCES FROM THE LAND

GRANTS AND OTHER REAL PROPERTY ENTRUSTED BY THE FILIPINO PEOPLE TO THEIR NATIONAL UNIVERSITY; PROVIDED, THAT SUCH MECHANISMS AND ARRANGEMENTS SHALL NOT CONFLICT WITH THE UNIVERSITY'S ACADEMIC MISSION AS WELL AS SUSTAIN AND PROTECT THE ENVIRONMENT, PROVIDED FURTHER, THAT THE PLANS SHALL PRESERVE THE ACADEMIC CORE ZONE OF EACH CONSTITUENT CAMPUS WHICH SHALL BE DELINEATED IN CONSULTATION WITH ALL SECTORS OF THE CONSTITUENT UNIVERSITY CONCERNED.;

27. On page 9, Section 21 on "Tax Exemptions", to delete the entire Subsection 1, lines 22 to 25, "All profits and income generated by the University derived exclusively from its fundamental function as an educational institution, shall be exempt from the income tax being imposed on every corporation"; and in lieu thereof to insert (1) ALL REVENUES AND ASSETS OF THE UNIVERSITY OF THE PHILIPPINES USED ACTUALLY, DIRECTLY AND EXCLUSIVELY FOR EDUCATIONAL PURPOSES SHALL BE EXEMPT FROM ALL TAXES AND DUTIES;

28. On page 9, lines 31 to 32, Section 21, Subsection 3, after the word "supplies", to insert the phrase EQUIPMENT, MACHINERY; to insert the word OTHER between the words "and" and "materials", to read supplies, EQUIPMENT, MACHINERY and OTHER materials . . .; and on page 10, lines 1 to 3, Section 21, Subsection 3, after the word "duties", to insert a period (.) and to subsequently delete the last phrase "upon endorsement from the Commission on Higher Education and the Department of Finance"; and

29. On page 10, Section 21, after Subsection 3, to add another subsection to read as follows: (4) PAYMENT OF VALUE ADDED TAX ON ANY OF ITS TRANSACTIONS.

SUSPENSION OF SESSION

On motion of Rep. Fuentebella, the session was suspended.

It was 7:25 p.m.

RESUMPTION OF SESSION

At 7:32 pm., the session was resumed.

TERMINATION OF THE PERIOD OF COMMITTEE AMENDMENTS

There being no other Committee amendments, on motion of Rep. Fuentebella, there being no objection, the Body terminated the period of Committee amendments.

INDIVIDUAL AMENDMENTS

On motion of Rep. Fuentebella, there being no objection, the Body considered the individual amendments.

Thereafter, the Chair recognized Rep. Magtanggol T. Gunigundo I for his individual amendment.

PROPOSED AMENDMENT OF REP. GUNIGUNDO

Whereupon, Rep. Gunigundo proposed on page, 7, Section 10, paragraph 17, to insert a new provision to read as follows: TO PROVIDE SUCH SUPPORT, AS MAY BE DETERMINED BY THE BOARD, TO THE COUNCIL OF STUDENT ORGANIZATIONS AND SUCH OTHER RECOGNIZED STUDENT ORGANIZATIONS IN THE UNIVERSITY TO FOSTER UNIVERSITY SPIRIT AMONG THEIR RANKS AND PROMOTE THEIR GENERAL WELFARE.

Rep. Gunigundo explained that this particular provision will remedy the existing situation wherein student organizations receive minimal to zero institutional support from the university administration. At present, he pointed out that only the university Student Council and the Philippine Collegian editorial staff receive institutional support in the form of funds and office space from the university. All of these, he said, were specifically granted to student bodies by the Board of Regents under the University Code. Through this particular amendment, he explained that other student organizations, in the judgment of the board, will be given the same support provided that they have complied with the guidelines to be issued by the board in this respect. Moreover, he stated that this provision does not in anyway require the UP administration to support each and every student organization and to the contrary, it only opens the window for deserving student organizations to apply for whatever assistance may be made available to them.

Furthermore, Rep. Gunigundo clarified that the provision does not favor any sector or student community to the prejudice of the others as all student organizations will benefit from this and if there is any bias, it will only be to the council of student organizations. He then underscored that the federation of recognized organizations is presently in its death throes due to lack of institutional support. Once the Bill is enacted, he said that the university will be compelled to issue guidelines as to how recognized student organizations may apply for assistance and thus, recognize once and for all the important role played by student organizations in the life of each and every UP student.

In this regard, Rep. Abayon stated that Rep. Gunigundo's concern was already considered during committee deliberation on the Bill and precisely this was the reason why the Committee had proposed an amendment as provided under Section 10 of the Bill, on the Powers of the Board of Regents which is presently provided under Subsection 20 which states that "To exercise such other powers as may be necessary and proper to carry out the objectives of the this Act." Practically, he said, this particular provision already recognizes Rep. Gunigundo's concern.

WITHDRAWAL OF REP. GUNIGUNDO'S PROPOSED AMENDMENT

In view of this, Rep. Gunigundo withdrew his proposed amendment.

TERMINATION OF THE PERIOD AMENDMENTS

There being no other Committee and individual amendments, on motion of Rep. Fuentebella, there being no objection, the Body terminated the period amendments.

INSERTION OF REP. ALFELOR'S SPONSORSHIP SPEECH INTO THE RECORD

On motion of Rep. Fuentebella, there being no objection, the Body inserted Rep. Felix R. Alfelor Jr.'s sponsorship speech on House Bill No. 455 into the Record of the House.

ADDITIONAL COAUTHORS

Subsequently, on motion of Rep. Mitra, there being no objection, the following Members were made coauthors of the measure: Reps. J. R. Nereus O. Acosta, Benigno C. Aquino III, Roseller L. Barinaga, Belma A. Cabilao, Reynaldo A. Calalay, Arthur

F. Celeste, Edgar M. Chatto, Del R. De Guzman, Felix William B. Fuentebella, Raul M. Gonzalez, Oscar L. Gozos, Magtanggol T. Gunigundo I, Cecilia G. Jalosjos-Carreon, Constantino G. Jaraula, Cielo Krisel Lagman-Luistro, Benasing O. Macarambon Jr., Emilio C. Macias II, Abraham Kahlil B. Mitra, Antonio Eduardo B. Nachura, Carlos M. Padilla, Gilbert C. Remulla, Loretta Ann P. Rosales, Filomena "Nenet" S. San Juan, Rolex T. Suplico and Emmanuel Joel J. Villanueva.

APPROVAL ON SECOND READING
OF HOUSE BILL NO. 455

On motion of Rep. Fuentebella, there being no objection, the Body approved on Second Reading House Bill No. 455.

REMARKS OF REP. ABAYON

Whereupon, Rep. Abayon thanked the Members for the approval of the Bill, considering that the UP charter was enacted on June 18, 1908, and certainly, there is a need to strengthen its charter in order to meet the challenges of the times.

APPROVAL OF THE JOURNALS

On motion of Rep. Fuentebella, there being no objection, the Body approved the Journals of the previous sessions.

ADJOURNMENT OF SESSION

On motion of Rep. Fuentebella, there being no objection, the Chair declared the session adjourned until four o'clock in the afternoon of Wednesday, November 20, 2002.

It was 7:40 p.m.

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I hereby certify to the correctness of the foregoing

(Sgd.) ROBERTO P. NAZARENO
Secretary General

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