

MOCKERY AND ASSAULT AGAINST THE
CONSTITUTION
Privilege Speech of Sen. Alfredo S. Lim

January 24, 2006

Mr. President, distinguished colleagues, ladies and gentlemen, yesterday, you graciously accommodated and heard me speak about the injustices being heaped upon President Joseph Estrada and his counsel Atty. Allan Paguia. This afternoon, please bear with me anew as I rise on another question of personal privilege, this time, on the brewing issue on No Election.

Good or bad news, proponents of charter change, the notorious of which being the Consultative Commission, are peddling the idea of no more elections until 2010 which means that incumbent elected officials stay at the helm of their respective elective posts, with power offered on a silver platter, relieved of the ordeals inherent to a quest to be elected.

Yes Mr. President, mischievous proposal is for the senators, the representatives, local executives and their governing councils or boards including barangay officials whose term of office will end in

June 2007 will be privileged to extend their treasured posts beyond 2007. Even those whose term will end in 2007 and busying themselves in strategizing their course of candidacy for re-election this early, or those already barred under the Constitution to run for the same office upon full completion of their last term, foresee no end in their glory until 2010.

Shocking. Yes. But with delight for those whose only concerns is to immerse themselves in the political arena for fame, power and fortune, because they are now dispensed with worries to triumph at polls in incessantly entreating reluctant voters in their favor and indulge, expensively and extensively, to the whims and demands of the electorate. Obviously, the orchestrated privilege to stay in power in their respective elective posts, absent in any election, most likely than not, is a politically manipulated tribe, an opportunity for corruption at the expense of the Filipino electorate to silence protest, to abandon reluctance and to capitulate assent for the wooed approval of the proponents of the No-El, including the proposed switch to a parliamentary form of government, sadly at the expense, sacrifice and

breach of the impeccable mandates in the Constitution, primordially, the behest under its Section 10 of Article VI, which states, that:

“The salaries of Senators and Members of the House of Representatives shall be determined by law. No increase in said competition shall take effect until after the expiration of the full term of all the members of the Senate and the House of Representatives approving the same.”

By whatever stretch in one’s fertile imagination, the proposal to obtain our assent to the transformation of our presidential government to the parliamentarian system, which is to stay up to 2010 as senators including those whose full term will expire in 2007, as well as representatives on similar situation, will inevitably entail an increase in compensation. The approving legislators will be inevitably benefited by such act for services being rendered, simultaneous to such term of approval during their stay in Congress, although beyond the specified duration of the office, having been designed to inveigle approval of this bill into law. In such event, it becomes a compelling but blatant infraction of said constitutional proscription in the increase

of remuneration of the legislators, which must not take effect during the term of the approving legislative body. Such is a technical and practical impossibility for those senators and representatives whose term expires in 2007, yet necessarily included in its approving legislature. They cannot, but be benefited from their own act during their automatically extended term beyond its lapse in 2007.

Consequently, It knowingly circumvented the said constitutional mandate which will bring substantial changes in the political culture of the Philippines, since those benefited will necessarily continue to draw salaries, emolument and other privileges from the public coffer, as a result of their approval of this projected law, without being elected, hence, it is an outrageous violation of the constitutional impetus.

In fact, as regards the senators, Art. VI Section 4 of the Constitution is explicit that the term of office of the 24 senators shall be six (6) years and no one can serve more than two (2) terms while under its Section 7, the members of the House of Representatives who

are only entitled to a 3- year term of office cannot serve more than three (3) consecutive terms.

The automatic extension of their respective terms of office up to 2010, including those who are expected to surrender their posts in 2007 is, thus, repugnant to these Constitutional precepts, in the same manner that such unsolicited extension of term up to 2010, will not be in accord with its provisions governing the term of office of the local executives who should be legally out of their elective positions as of 2007, were it not for the farcical proposal.

Beyond cavil, such voluntarily bestowed extension of term up to 2010 for elective positions that are to end in 2007, as akin and synonymous to premeditated and pre-scheduled announcement of nullity of an election for 2007, which could not have failed nor annulled being still a vision and, yet ironically denied already of its existence, for the benefit of the few, but at the expense and detriment of the voting populace.

Apropos to this, in *Carlos vs. Angeles*, 346 SCRA 571, the Supreme Court warned that “not even a trial court has jurisdiction to declare a failure of election”. Simply said, we are thus, devoid of any right to even contemplate on the fiction, as yet, of the failure of the scheduled 2007 election. Such act of disenfranchising the electorate, nationwide, will be arbitrary and despotic, absent any equitable and legally valid rationale. In fact, it is acknowledged since time immemorial, that the public elective offices can only be filled by those who receive the highest number of votes cast in the election for that office. For in all republican forms of government, the basic idea is that no one can be declared elected and no measure can be declared carried, unless the candidate receives a majority or plurality of a legal votes cast in the election.” (*Geronimo vs. Ramos*, 136 SCRA)

Sad to say, we are obviously being hoodwinked. Mortals as we are and vulnerable to mistakes, we can not, however, countenance any flagrant violation of our fundamental rights enshrined as Bill of Rights in our Constitution – the heart and soul of our democracy. The threshold issue, thereof, is the constitutionality of the desired legislative act from this august body.

No less than the same Highest Tribunal pronounced in *Nolasco vs. Comelec*, 275 SCRA 762, that the right to vote is a most precious political right, being the means by which our people express their sovereign judgment hence, to impede it, is to inflict the worst damage on our democratic process, because suffrage is a right akin to property and according to Section 1 of Article III of the Constitution:

“No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.”

In our Constitution, the safeguard to the right to vote inherently carries the freedom of speech and of the press, as well as the right of the people peaceably to assemble and petition the government of redress of grievances, and the rule is emphatic under Section 4 of its Article III “No law shall be passed to abridge” this freedom.

Verily, we cannot just simply extend the legally ended fixed term of our elective officials in 2007 without being faulted for the

breach of constitutional mandates. WE cannot render these constitutional nugatory on the basis of mere speculation that the voice of Filipinos would accept it.

Proclaiming ourselves as winners and qualified to stay in our positions even if our terms expire in 2007 without the benefit of an election is not only unjust and unfair to the people, but a mockery of the basic right of the electorate to choose their leaders and public officers as well.

In a democracy, public interest and the sovereign will of the people, expressed through the ballots, must at all times, be the paramount consideration. Ignoring it will be a blatant abuse of legislative function in an arbitrary or despotic manner, amounting to evasion of the positive duty to act in accord with law.” (Moran, comments on the Rules of Court, vol. III 1997 ed. P. 221).

After all, as succinctly held in *Veterans Federation Party vs. Comelec*, 342 SCRA 224, “There is no constitutional right to win

election, only the constitutional right to equal opportunity to participate in and influence the selection of candidates.”

Let us admit it. We have a functioning democracy. Why do we have to engage ourselves in other political experiments of dubious results, which are contrary to the imperative provisions of our Constitution? The solution to our political ordeal, as well as our economic burden, with this disturbing crisis, is not recourse to constitutional changes but reforms in our political governance- moral reforms and policy reforms. Our goal must commence with decisive programs to address economic, social environmental, law and order and other pressing and unending problems which are compelling immediate and efficacious actions. These matters are far more important than constitution- making and must be prioritized before anything else.

In his book entitled “The Imperial Presidency” (Boston, 1948, ed. P. 4991), Historian Schlesinger, shares his inspiring wisdom when he said:

“If democracy seems in trouble it is not because the constitutional machinery works poorly. It is because our brains work poorly. If we have convincing cures for our ailments, we could make the machinery work. Tinkering with the machinery is no substitute for thinking hard about what to do with it and it may distract intelligent men and women from confronting the grave substantive problems in all our future.”

The 1987 Constitution was intended to serve as the framework for the restored democracy. Not that we have a working democracy that has survived extra-constitutional challenges in the past, must we surrender our moral values and principle to the tailor-made proposals of the proponents of a change to a parliamentary government, to suit its political objectives to the extent of reducing the fundamental law to a mere partisan document, that can be dumped or ignored any time upon the inclination, whim, or prodding of those in power?

Admittedly, the challenge to our liberties comes frequently not from those who consciously seek to destroy our system of government, but from men of goodwill. Good men who allow their proper concerns

and perhaps, self motives, blinding them to the fact that what they propose to achieve entails an impairment of sacred liberties. Their motives may be commendable. But what we have to contemplate and never forget, however, is that preservation of liberties does not depend on motives. A suppression of liberty has the same effect, whether the suppressor be a reformist or a villain. The only protection against misguided zeal is constant alertness to the infractions of the guarantee of liberty contained in our Constitution. Remember, each surrender of liberty to the demands of the moment makes easier another larger surrender. The battle over the basic rights is never an ending one. The liberties of any Filipino are the liberties of all of us.

Thank you and good day.

ALFREDO S. LIM