

REPUBLIC OF THE PHILIPPINES

S e n a t e

Pasay City

Journal

SESSION NO. 29

Wednesday, October 27, 2004

**THIRTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 29
Wednesday, October 27, 2004

CALL TO ORDER

At 3:32 p.m., Wednesday, October 27, the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Senate President Franklin M. Drilon led the prayer, to wit:

Almighty God, Who has given us this country, we humbly ask You that we may prove ourselves as a people mindful of Your favor.

Bless us with industry, prosperity, learning, and purity of life.

Save us from discord and violence, from pride and arrogance.

Preserve us from public calamities, pestilence, and famine; from war, conspiracy and rebellion; and especially from national sins and corruption.

Defend our liberties, O Lord, and make us Filipinos as one united people.

Endow with wisdom those in authority, that justice and peace may prevail.

Make us strong and great in the fear of God, and in the love of righteousness, so that, with Your blessings, we may be a blessing to all our people.

In prosperity, fill our hearts with thankfulness; in trouble, let not our trust in You fail.

All of which we ask through Jesus, our Lord.

Amen.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Oscar G. Yabes, called the roll, to which the following senators responded:

Arroyo, J. P.	Lacson, P. M.
Defensor Santiago, M.	Lim, A. S.
Drilon, F. M.	Madrigal, M. A.
Ejercito Estrada, J.	Pangilinan, F. N.
Ejercito Estrada, L. L. P.	Pimentel Jr., A. Q.
Enrile, J. P.	Revilla Jr., R. B.
Flavier, J. M.	Villar Jr., M. B.

With 14 senators presents, the Chair declared the presence of a quorum.

Senators Biazon, Cayetano, Gordon, Lapid, Magsaysay, Osmeña and Recto arrived after the roll call.

Senator Angara was on official mission.

Senator Roxas was absent.

APPROVAL OF THE JOURNAL

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 28 and considered it approved.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 3:35 p.m.

RESUMPTION OF SESSION

At 3:36 p.m., the session was resumed.

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REFERENCE OF BUSINESS

The Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

**MESSAGES FROM THE
HOUSE OF REPRESENTATIVES**

Letter from the Secretary General of the House of Representatives, informing the Senate that on July 26, 2004, the House of Representatives passed House Concurrent Resolution No. 6, entitled

CONCURRENT RESOLUTION
PROVIDING FOR THE SENATE
AND THE HOUSE OF
REPRESENTATIVES TO HOLD A
JOINT SESSION TO HEAR THE
MESSAGE OF THE PRESIDENT
OF THE REPUBLIC OF THE
PHILIPPINES,

in which it requested the concurrence of the Senate.

To the Archives

Letter from the Secretary General of the House of Representatives, informing the Senate that on July 26, 2004, the House of Representatives concurred with Senate Concurrent Resolution No. 2, entitled

CONCURRENT RESOLUTION
CREATING A JOINT COMMITTEE OF
THE SENATE AND THE HOUSE OF
REPRESENTATIVES TO NOTIFY
THE PRESIDENT OF THE
PHILIPPINES THAT CONGRESS,
NOW CONVENED FOR ITS FIRST
REGULAR SESSION OF THE
THIRTEENTH CONGRESS OF THE
PHILIPPINES, IS READY TO HEAR
HER STATE OF THE NATION
ADDRESS IN A JOINT SESSION
OF BOTH HOUSES

To the Archives

Letter from the Secretary General of the House of Representatives, transmitting to the Senate a copy of Resolution No. 1, entitled

RESOLUTION INFORMING THE
SENATE THAT THE HOUSE OF
REPRESENTATIVES HAS BEEN
ORGANIZED AND HAS ENTERED
UPON THE EXERCISE OF ITS
FUNCTIONS,

which was adopted by the House of Representatives on July 26, 2004.

To the Archives

Letter from the Secretary General of the House of Representatives, informing the Senate that on September 1, 2004, the House of Representatives adopted House Concurrent Resolution No. 9, entitled

CONCURRENT RESOLUTION
AMENDING THE LEGISLATIVE
C A L E N D A R
FOR THE FIRST REGULAR
SESSION OF THE THIRTEENTH
CONGRESS OF THE PHILIPPINES,

in which it requested the concurrence of the Senate.

To the Archives

Letter from the Secretary General of the House of Representatives, informing the Senate that on September 14, 2004, the House of Representatives approved the Bicameral Conference Committee Report on the disagreeing provisions of House Bill No. 2808 and Senate Bill No. 1757, both entitled

AN ACT FIXING THE DATE OF
REGULAR ELECTIONS FOR
ELECTIVE OFFICIALS OF THE
AUTONOMOUS REGION IN
MUSLIM MINDANAO PURSUANT
TO REPUBLIC ACT NO. 9054,
ENTITLED "AN ACT TO
STRENGTHEN AND EXPAND THE

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ORGANIC ACT FOR THE
AUTONOMOUS REGION IN
MUSLIM MINDANAO, AMENDING
FOR THE PURPOSE REPUBLIC
ACT NO. 6734, ENTITLED AN ACT
PROVIDING FOR AN ORGANIC
ACT FOR THE AUTONOMOUS
REGION IN MUSLIM MINDANAO,"
AS AMENDED

To the Archives

Letter from the Secretary General of the House of Representatives, informing the Senate that on September 21, 2004, the House of Representatives passed House Joint Resolution No. 2, entitled

JOINT RESOLUTION CREATING A CONGRESSIONAL COMMISSION TO REVIEW AND ASSESS THE DEBT POLICIES, STRATEGIES AND PROGRAMS OF THE PHILIPPINES, CONDUCT A PUBLIC AUDIT OF ALL LOANS ACQUIRED, INCLUDING ASSUMED AND CONTINGENT LIABILITIES, VALIDATE THE UTILIZATION OF LOAN PROCEEDS AND THE PAYMENTS MADE THEREON, AND RECOMMEND POLICIES AND STRATEGIES TO REDUCE DEBT SERVICE AS WELL AS INSTITUTIONAL AND INFRASTRUCTURAL MEASURES TO ENSURE SOUND FISCAL AND MONETARY STATUS OF THE NATIONAL GOVERNMENT PRINCIPALLY THROUGH EFFECTIVE DEBT MANAGEMENT,

in which it requested the concurrence of the Senate.

**To the Committees on Finance; and
Economic Affairs**

Letter from the Secretary General of the House of Representatives, transmitting to the Senate the attached letter dated 14 September 2004 of the Honorable Speaker Jose De Venecia Jr., addressed to Senate President Franklin M.

Drilon, informing the Senate of the designation of the following as members of the House Panel in the Joint Congressional Power Commission created pursuant to Section 62 of R. A. No. 9136, or the Electric Power Industry Reform Act:

1. Hon. Alipio Cirilo "Tikbong" V. Badelles - Chairman
2. Hon. Constantino G. Jaraula - Vice-Chairman
3. Hon. Henedina R. Abad - Member
4. Hon. Vincent J. Garcia - Member
5. Hon. Arnulfo P. Fuentebella - Member
6. Hon. Edgar L. Valdez - Member
7. Hon. Ruy Elias C. Lopez - Member

To the Committee on Rules

Letter from Speaker Jose De Venecia Jr., of the House of Representatives, dated September 20, 2004, informing the Senate that pursuant to Section 19 of the Anti-Money Laundering Act of 2001 (RA 9160 as amended by RA 9194), the following are the members of the House Panel in the Anti-Money Laundering Act of 2001 Congressional Oversight Committee:

1. Hon. Jaime C. Lopez
2. Hon. Simeon A. Datumanong
3. Hon. Teodoro O. Locsin, Jr.
4. Hon. Jose Carlos V. Lacson
5. Hon. Marcelino C. Libanan
6. Hon. Rodolfo Rodrigo G. Plaza
7. Hon. Alan Peter S. Cayetano

To the Committee on Rules

Letters from the Secretary General of the House of Representatives, transmitting the letters of Speaker Jose De Venecia Jr., dated September 21, 2004, addressed to Senate President Franklin M. Drilon, informing the Senate of the designation of the members of the House Panel to the following Oversight Committees:

for the Oversight Committee on the Electoral Modernization Act

1. Hon. Teodoro L. Locsin
2. Hon. Robert Ace S. Barbers
3. Hon. Francis Joseph G. Escudero

15

for the Congressional Oversight Committee on the Comprehensive Dangerous Drugs Act

1. Hon Roque R. Ablan Jr.
2. Hon. Antonio V. Cuenco
3. Hon. Juan Miguel F. Zubiri
4. Hon. Amado T. Espino
5. Hon. Robert Ace S. Barbers
6. Hon. Darlene Magnolia R. Antonino-Custodio
7. Hon. Justin "Timmy" S. B. Chipeco

for the Oversight Committee on the Government Procurement Reform Act

1. Hon. Rolando G. Andaya Jr.
2. Hon. Exequiel B. Javier
3. Hon. Alan Peter S. Cayetano

for the Legislative Oversight Committee to monitor and oversee the implementation of the Visiting Forces Agreement

1. Hon. Antonio V. Cuenco - Chair
2. Hon. Roilo S. Golez - Co-Chair
3. Hon. Rozzano Rufino B. Biazon
4. Hon. Emmylou Taliño-Santos
5. Hon. Joseph Emilio A. Abaya
6. Hon. Teofisto D. Guingona III
7. Hon. Erico Basilio A. Fabian

and for the Oversight Committee on the Clean Water Act

1. Hon. J. R. Nereus O. Acosta
2. Hon. Gilbert C. Remulla
3. Hon. Ma. Angelica Rosedell M. Amante
4. Hon. Robert "Dodot" Jaworski
5. Hon. Vincent "Bingbong" P. Crisologo

To the Committee on Rules

COMMUNICATIONS

Letter from President and CEO Anthony Dy Dee of the Datelcom Corporation, accepting the terms and conditions concerning the grant of congressional telecommunications franchise under Republic Act No. 9317.

To the Committee on Public Services

Letter from President Felicisimo B. Billones of the Radio Corporation of the Philippines, informing the Senate of their acceptance and commitment to comply with the requirements stipulated in the franchise under Republic Act No. 9318.

To the Committee on Public Services

Letter from Secretary Alberto G. Romulo of the Department of Foreign Affairs, submitting to the Senate the following reports in line with Section 28 of the Overseas Absentee Voting Act of 2003:

Observations on the Initial Implementation of the Overseas Absentee Voting Act of 2003: Report to Congress;

Review of the Implementation of the Overseas Absentee Voting Act of 2003: Areas for Consideration; and

Implementation of Overseas Absentee Voting for the 2004 National Elections: An Assessment by the Posts.

To the Committees on Constitutional Amendments, Revision of Codes and Laws; and Foreign Relations

Letter from Chairman Guillermo N. Carague of the Commission on Audit, submitting to the Senate the 2003 Annual Financial Reports showing the financial conditions of the following pursuant to Section 4, Article IX-D of the Constitution of the Philippines:

Volume I - National Government as of December 31, 2003;

Volume II - Government Owned and/or Controlled Corporations as of December 31, 2003; and

Volume III - Local Government as of December 31, 2003.

To the Committee on Finance

Letter from Undersecretary Danilo P. Cruz of the Department of Labor and Employment, providing the Senate a copy of the Report to Congress of the Philippine Overseas Labor

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Offices (POLO) for the period July to December of 2003, in accordance with the provisions of Section 33 of Republic Act of 8042, otherwise known as the Migrant Workers and Overseas Filipino Act of 1995.

To the Committees on Labor, Employment and Human Resources Development; and Foreign Relations

Letter from Governor Rafael B. Buenaventura of the Bangko Sentral ng Pilipinas, submitting to the Senate the data on outstanding Philippine external debt as of 31 March 2004, as noted by the Monetary Board under its Resolution No. 887 dated 23 June 2004.

To the Committees on Finance; and Economic Affairs

Letter from Governor Rafael B. Buenaventura of the Bangko Sentral ng Pilipinas, transmitting to the Senate the 2003 report on rules and regulations promulgated by, and other actuations of, the Monetary Board in connection with rural banks in compliance with Section 29 of Republic Act No. 7353 (Rural Banks Act of 1992),

To the Committee on Banks, Financial Institutions and Currencies.

ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

Senate Bill No. 1834, entitled

AN ACT DECLARING AND IMPLEMENTING A NATIONAL POLICY FOR TOURISM AS THE PRIMARY ENGINE OF INVESTMENT, EMPLOYMENT, GROWTH AND NATIONAL DEVELOPMENT, AND PROVIDING NECESSARY INCENTIVES THEREFOR

Introduced by Senator Gordon

To the Committees on Tourism; Civil Service and Government Reorganization; Ways and Means; and Finance

Senate Bill No. 1835, entitled

AN ACT PROVIDING FOR AN INCREASE IN THE SALARY OF GOVERNMENT DOCTORS AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Villar Jr.

To the Committees on Health and Demography; Civil Service and Government Reorganization; and Finance

RESOLUTION

Proposed Senate Resolution No. 120, entitled

RESOLUTION DIRECTING THE SECRETARY OF FOREIGN AFFAIRS TO INQUIRE WITH THE HOUSE OF COUNCILORS OF JAPAN (THE DIET OF JAPAN) THE STATUS OF THE LEGISLATION PROMOTING THE RESOLUTION OF ISSUES CONCERNING VICTIMS OF WARTIME SEXUAL COERCION

Introduced by Senator Compañera Pia S. Cayetano

To the Committee on Foreign Relations

SECOND ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

Senate Bill No. 1836, entitled

AN ACT AMENDING SECTION 31 OF REPUBLIC ACT NO. 6770, OTHERWISE KNOWN AS "THE OMBUDSMAN ACT OF 1989," AS AMENDED, ALLOWING PRIVATE LAWYERS TO ACT AS PROSECUTORS ON BEHALF OF THE OMBUDSMAN

Introduced by Senator Pangilinan

To the Committee on Justice and Human Rights

11 18

Senate Bill No. 1838, entitled

AN ACT AMENDING SECTION 109 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES

Introduced by Senators Drilon, Flavio and Pangilinan

To the Committee on Ways and Means

Senate Bill No. 1839, entitled

AN ACT RATIONALIZING THE FISCAL INCENTIVES SYSTEM BY WITHDRAWING THE TAX AND DUTY EXEMPTION AND PREFERENTIAL TREATMENT GRANTED TO GOVERNMENT AND PRIVATE ENTITIES UNDER SPECIAL LAWS, WITH CERTAIN EXCEPTIONS, MANDATING THE FISCAL INCENTIVE REVIEW BOARD TO OVERSEE THE ADMINISTRATION OF ALL FISCAL INCENTIVES AND FOR OTHER PURPOSES

Introduced by Senators Drilon, Flavio and Pangilinan

To the Committee on Ways and Means

COMMITTEE REPORT

Committee Report No. 3, prepared and submitted by the Committee on Agriculture and Food, on Senate Bill No. 1837 with Senator Magsaysay Jr. as author thereof, entitled

AN ACT EXTENDING THE UTILIZATION PERIOD OF THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND, AMENDING FOR THIS PURPOSE SECTION 8 OF REPUBLIC ACT NO. 8178, ENTITLED "AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS ON AGRICULTURAL

PRODUCTS, EXCEPT RICE, WITH TARIFFS, CREATING THE AGRICULTURAL COMPETITIVENESS FUND" AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill No. 1165

Sponsor: Senator Magsaysay Jr.

To the Calendar for Ordinary Business

COAUTHOR

Senator Pangilinan manifested that Senator Gordon is coauthor of Senate Bill Nos. 1838 and 1839.

PRIVILEGE SPEECH OF SENATOR OSMEÑA

Availing himself of the privilege hour, Senator Osmeña delivered the following speech:

UCPB DEPOSITS OF GENERAL GARCIA WITHDRAWN BEFORE FREEZE ORDER

The story which I would have wanted to discuss yesterday on the floor became the subject of several news articles today. This concerns the UCPB bank accounts in the name of Gen. Carlos Garcia, his wife Clarita and his three sons.

I wanted to bring this issue to the attention of the Senate because I recall that when we were heatedly debating the provisions of the original Anti-Money Laundering Act and, a year later, the amendments to the Anti-Money Laundering Act, there had been a very strong resistance in both Houses of Congress to allow or give or grant the Anti-Money Laundering Council the power to temporarily freeze bank accounts that were the subjects of suspicious transaction reports by the bank's concerned.

Now we are learning our lesson. Because that particular provision was not

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included and not approved, there was created a huge loophole in the law whereby advance warning given to the culprit gives him enough time to withdraw all the monies in those accounts he may be holding before the Court of Appeals even has a chance to issue a freeze order.

The accounts in the UCPB were in the names of Carlos Garcia, P4.6 million, his wife, Clarita, had two accounts, P3.1 million and another with something a little over P1 million. His three sons, Timothy Mark Garcia, Ian Carl Garcia and Juan Paolo Garcia, each had equal amounts in their accounts, P4,289,345.60. It seems that he divided a certain sum equally among his three sons. The six peso accounts had a total deposit level of P21,634,330.51.

In addition to that, General Garcia and his wife also held two FCDU accounts – FCDU stands for Foreign Currency Deposit Units – in U.S. dollars in the name of Clarita or Carlos Garcia, in the amount of US\$101,169.06, and a second account in the name of Clarita Garcia alone in the amount of US\$202,338.12, for total of US\$303,507.18. At the conservative foreign exchange rate of P56.30 to the dollar, that would amount to P17,087,454.23, or a grand total on all eight accounts of P38,721,784.74.

On October 5, Tuesday, the newspapers first carried the item on the ill-gotten wealth of General Garcia. And I say ill-gotten, not even unexplained, because his wife did confess to the United States Customs officials that these amounts were the subject of gratitude fees, shopping frees, travel fees and whatever was given to them by certain suppliers of military equipment.

On the following day, October 6, General Garcia called up the manager of the UCPB branch at Salcedo Place in Salcedo Village. And on the next day, October 7, Thursday, at three p.m., Garcia withdrew all P38,721,000 in cash contained in several boxes. The UCPB

only reported this matter to the AMLC within the five-working day deadline mandated by law on October 12, Tuesday.

I do not think it was the intent of Congress, when we passed the AMLA and the amendments to the Anti-Money Laundering Act, to allow this loophole to exist. I strongly recommend that the Committee on Banks, Financial Institutions and Currencies revisit the AMLA with a view to plugging this loophole because we are going to be made fools of in the future if this should happen again. I believe that several other generals, as exposed by Sen. Miriam Defensor Santiago, have already been able to withdraw all their deposits because of the Garcia exposé.

I would like this issue referred to the Committee on Banks, Financial Institutions and Currencies.

REMARKS OF SENATOR ARROYO

Senator Arroyo commended Senator Osmeña for bringing out the issue as he stated that every time the Congress passes a bill into law, the Executive department is expected to implement it properly. However, he noted, this has not been the case because while Section 6 of R.A. No. 9194 states that the covered institution shall report to the AMLC covered or suspicious transactions within five working days, the UCPB, which already knew on October 6 that General Garcia was under investigation, allowed him to withdraw P38 million the following day.

Senator Arroyo said that the bank should have been put on alert because the transaction was suspicious, hence, it should have reported the same within five working days. He asserted that the UCPB was in violation of the law because P38 million cannot be withdrawn immediately.

On the basis of the facts cited by Senator Osmeña, Senator Arroyo pointed out that two institutions violated the law — 1) The UCPB for not reporting a suspicious transaction; and 2) the AMLC for not applying immediately to the Court of Appeals a freeze order *ex parte* as provided for in Section 10 of the AMLA.

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Expressing support for the suggestion of Senator Osmeña, Senator Arroyo stated that the problem is not the law but the banks that violate it. He asked why the *Bangko Sentral* did not report this suspicious transaction to the AMLC and why the AMLC did not apply for a freeze order.

Senator Osmeña stated that the crime was not in the delay of the bank in reporting the withdrawal but in its failure to report the deposits that were made over time. He said that General Garcia's three sons were able to deposit similar amounts under their names at the same time. He added that it was obvious the general got a certain amount of money that was equally distributed among the three sons and deposited in one bank.

Senator Osmeña recalled that the revised Section 3 of the AMLA defines the term "covered transaction" as a transaction in cash or equivalent monetary instrument involving a total amount in excess of P500,000 within one banking day. He added that during the debates on the AMLA on the floor and in the bicameral conference committee, the underpinning rule was that the bank must know its customer. Furthermore, he said that it is incumbent upon the banks to report a long-time depositor or a new depositor who deposits an amount that is way in excess of what he is generally known to deposit or earn given his status in life. He said that none of the banks -- AFPSLAI, Allied Bank, and UCPB -- bothered to report the suspicious transactions.

Senator Osmeña wondered how three college students were able to each deposit P4.2 million. He said that the bank manager should have at least asked where the money came from. He stressed that the spirit and the letter of the law had not been obeyed and adhered to. Moreover, he believed that the Garcia case would further damage the reputation of the Philippines and the country might not be taken off the watch list of the Financial Action Task Force (FATF), even as he lauded the efforts of Senator Magsaysay to get the Philippines off the watch list. He noted that the FATF has indicated that the AMLA is a good law but it wanted to see if the Philippine government could enforce it. He pointed out that

the government had promised the FATF and the international financial community that it would institute financial reforms; however, it just flunked the first test. He hoped that the Senate would take the lead in introducing further amendments to the AMLA to save face for the country and the banking officials.

REMARKS OF SENATOR MAGSAYSAY

Senator Magsaysay stated that several months ago, he made a strong statement regarding the ineffective implementation of the AMLA on the ground that the AMLC has not been reporting to the Oversight Committee on how banks and other institutions are reporting covered or suspicious transactions. He said he knew that each bank has a supervising vice president who works on the basis of KYC or Know Your Customer, the purpose of which is to help the AMLC, that has a staff of 32 within the BSP, extend its effectiveness. In this instance, he said, the UCPB and the AFPSLAI were culpable and, therefore, they have to explain to the Committee on Banks, Financial Institutions and Currencies why they did not report the transactions.

He expressed support for the proposal to convene the Committee to hear the testimony of bank officials and the AMLC.

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Pangilinan, there being no objection, the Chair referred the privilege speech of Senator Osmeña and the interpellations thereon to the Committee on Banks, Financial Institutions and Currencies.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:07 p.m.

RESUMPTION OF SESSION

At 4:07 p.m., the session was resumed.

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**COMMITTEE REPORT NO. 2
ON SENATE BILL NO. 1833**

(Continuation)

Upon motion of Senator Flavier, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1833 (Committee Report No. 2), entitled

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

Senator Flavier stated that the parliamentary status was still the period of interpellations.

Thereupon, the Chair recognized Senator Pangilinan, sponsor of the measure.

**INTERPELLATION OF
SENATOR CAYETANO**

At the onset, Senator Cayetano expressed hope that the national university would set standards in teaching, research and faculty development as she recalled that as graduates of the U.P. College of Law, she and her father, as well as many of their fellow graduates, received offers to teach at the college but these were turned down primarily because of economic reasons.

Senator Cayetano expressed optimism that Section 11(k) exempting U.P. professors from the Salary Standardization Law would allow U.P. colleges to maximize the talents of their graduates. She lamented that many young lawyers prefer to teach in the Ateneo College of Law not only because of its proximity to Makati but also because of compensation. She disclosed that her younger brother who graduated from and taught in the U.P. College of Mass Communications started out with a salary of P2,000 a month which in no way would encourage someone to devote his skills and talent to the college if he would eventually want to raise a family.

Senator Pangilinan affirmed that the University of the Philippines is plagued by problems like the demoralization among faculty members and the inability of the University to attract the best and the brightest of its graduates to teach in the institution. He pointed out that Dr. Nemenzo,

President of the University of the Philippines, cited several reasons for faculty demoralization, namely, poor pay, declining prestige of the academe profession, and poor state of facilities for research and teaching. He pointed out that from 1998 to 2002, the record of the University showed that 200 of its faculty with PhDs left to either work in the industry/business sector or teach in private schools such as Ateneo de Manila University, University of Asia and the Pacific, and De La Salle University. He said that a professor of De La Salle University earns three times as much as a full professor of U.P. He expressed hope that the provision allowing the Board of Regents to fix and set the salaries and benefits of the faculty members, in addition to the provision allowing the Board to raise additional revenues from the use of U. P.'s idle assets, would address the matter of compensation.

With regard to comparative salary scales, Senator Cayetano revealed that the starting pay in U.P. is P15,000 and De La Salle University, P28,000; and the maximum pay in U.P. is P22,000 and DLSU, P41,000. She hoped that increased salaries would entice *cum laude* graduates to become professors, and not merely call center operators which have become the best job option nowadays.

On faculty development, Senator Cayetano pointed out that the only way to uplift the state of education in the country is to pay attention to the teachers by making teaching a desirable profession as it was during the time of her grandmother, a public school teacher. Nowadays, she lamented, one rarely hears a college student say that he/she wants to mould the minds of the youth and make a difference.

Agreeing to the observation, Senator Pangilinan disclosed that his grandfather was a former superintendent of schools in Nueva Ecija, his mother taught in the U.P. Preparatory School, and he himself taught in the Ateneo de Manila for seven years. He said that while it is true that the welfare and rights of students must be considered, the traditional thinking regarding the academe is that a university is only as good as its faculty. The needs of the faculty of the educational system, in general, and of U.P., in particular, should be addressed, he said.

With regard to Section 3(3), Senator Cayetano stated that U.P. is one of the primary sources of research in the country. She mentioned the willingness of U.P. professors to extend their research expertise and services to Congress. However, she underscored the need for more funds to upgrade research facilities. Senator Pangilinan affirmed the need to maximize research capability as the world becomes smaller and trade becomes global. For instance, he said, various biotechnology research studies crucial to modernizing agriculture are being undertaken in U.P. Los Baños.

At this point, Senator Cayetano expressed agreement with the suggestion of Senator Gordon to include sports as an area where the University could achieve excellence. She noted the state of neglect of sports not only in U.P. but also in other colleges; for instance, compared to basketball, volleyball is a third-class sport that very few watch. Even the U.P. basketball team, she said, did not have much support until her father's friends from the ACCRA Law Office and the Sigma Rhoans raised some money to support it. She recalled that her father offered to be manager of her volleyball team and then U.P. President Angara offered scholarships to the members should the team become champion. She lamented that she has never seen initiatives from U.P. that come close to the incentives, initiatives and support given by other schools to their own sports teams. She believed that sports build character.

Senator Pangilinan explained that given the meager resources of the University, there are certain aspects of university life that suffer including the sports program. However, he said that at this time, U.P. has put up a P4 million endowment fund for athletes and coaches. He expressed hope that when the debate on the pork barrel shall have been resolved, the nine U.P. alumni in the Chamber could allocate some funds to the endowment fund. Relative thereto, he said that his love for sports dates back to his elementary days when he was exempted from Physical Education because of his frail body. He said that he overcame his frailty through sports that he eventually took to heart. On a positive light, he said that nowadays, not only UAAP basketball games are

televised but also volleyball games. And if its UAAP performance would be used to gauge U.P.'s support for sports, he said that U.P. placed second overall in the UAAP. Senator Cayetano noted the neglect of Ylanan Hall in U.P., the dormitory for athletes. Senator Pangilinan pointed out that if more support would be provided for the University as well as for sports, such sad experience would be avoided.

Relative to Section 11(m) on the power of the Board of Regents to fix tuition fees, Senator Cayetano emphasized that consultation is very critical to students who want to be heard on the issue, and that it must be real. Senator Pangilinan agreed as he added that precisely, the mandate on democratic consultation was incorporated in the bill.

Adverting to Section 11(r) on the power of the Board of Regents to exercise the general powers set out in the Corporation Code, Senator Cayetano inquired about check and balances provided for in the Code in view of the different voting requirements. Further, she asked how concerns regarding any abuse of this power would be addressed. Senator Pangilinan clarified that the provision is a common provision in the charters of all the SUCs, pursuant to R.A. No. 8292. As regards the issue of check and balances, he agreed that there is a need to ensure that the exercise of this power would not be abused. He disclosed that this issue had been raised in previous committee hearings, for which reason the Committee provided safeguards. For instance, he said, the sale of any asset of the University should be done only in exceptional cases. He added that any amendment to incorporate safeguards in the bill would be accepted at the proper time.

INTERPELLATION OF SENATOR ENRILE

At the outset, Senator Enrile stated that as a product of U.P., he would support the charter revision, agreeing that, in fact, U.P. must be the premier university of the nation. Referring to the term "national university," he asked how it would distinguish the University from being a state university.

At this juncture, Senator Lacson pointed out that the sentence in Section 2 states that,

70

"Toward this end, it is the policy of the State to strengthen the University of the Philippines as the National University." He asked if other state colleges and universities would be precluded from being categorized as a national university. The Chair stated that the point raised by Senator Lacson would be addressed when he interpellates Senator Pangilinan.

As regards the term "national university," Senator Pangilinan replied that the concept has been adopted by various countries worldwide. He explained that the concept of a national university means that it is the country's most advanced institution of higher learning not only in teaching but also in research. He cited institutions in Asia like the National University of Singapore, the University of Malaya, the Chulalongkorn University, the University of Tokyo and the Peking University as national universities. He said that the national university of a country must therefore be comparable with the other national universities of the region, and that it should serve as a model for other universities as a center for knowledge and the source of top-ranked teachers and researchers.

Asked if the U.P. is expected to be the primary and highest academic institution of the Republic, Senator Pangilinan replied in the affirmative.

Adverting to Section 9, Senator Enrile asked on the institutional requirements to make U.P. a national university. He noted that the term "institutional requirements" is undefined. Senator Pangilinan said that his own understanding of the term "institutional requirements" includes, for instance, a need to be exempted from the Salary Standardization Law. He affirmed the observation that U.P. must be autonomous, nonpolitical and nonpartisan; and it must enjoy academic freedom.

Asked if the charter, in effect, would authorize U.P., as a national university, to create other satellite universities, Senator Pangilinan replied in the affirmative, adding that the bill gives such power to the Board of Regents.

On whether a satellite university would have a separate personality apart from U.P., Senator Pangilinan replied such is not the intent of the bill. He stated that the U.P. System is the entity that has a juridical personality.

Senator Enrile posited that the term "university," as used in relation to the University of the Philippines as a corporate entity, does not connote an independent person that can sue and be sued, contract and own property, and that it exists only by virtue of the U.P. charter. Senator Pangilinan said that under the proposed charter, the assertion is correct.

In case someone sues a satellite university, on whether the personality to be sued would have to be the University of the Philippines, Senator Pangilinan answered that it must be the U.P. System.

On whether contracts to be entered into by a satellite university would have to be in the name of the University of the Philippines, Senator Pangilinan replied that it must be the U.P. System.

Asked if properties to be owned and titled would have to be under the name of the University of the Philippines, Senator Pangilinan stated that it must be the U.P. System. Senator Enrile agreed that such prerogatives must be granted to the U.P. System.

Adverting to Section 3(4), on the U.P. extension services, Senator Enrile mentioned that in the course of performing these activities, certain emoluments would have to be earned either by way of benevolent grant or payment for services. He asked if the money would go the University itself or to a fund subject to the disposition of the Board of Regents. Senator Pangilinan said that these extension services are at times *pro bono*. However, he clarified that when there are emoluments involved, the U.P. System has a share.

Senator Enrile stated that he does not mind if the University would charge for its services in doing research work for certain private institutions. Senator Pangilinan added that there are cases where honoraria are given to faculty members who undertake these extension services. He informed the Body that there is some kind of arrangement as when a government entity needs some research work, it can go to U.P., another government institution, instead of a private entity.

In case a private company borrows a professor of the University as a consultant and he

16

is being paid by the University for the time that he is on leave to perform the assignment, Senator Enrile asked whether the extra pay from the private company would go to the University rather than to the professor. Senator Pangilinan stated that the compensation would go to the professor. This assignment, he said, is called a special detail that requires the action and approval of the Board.

Senator Enrile said that if U.P. would be performing its role in serving the community as a social university, the provision that the stipend would be given to any faculty member or official who would perform the consultation or research work must be clarified. Senator Pangilinan agreed.

As to the definition of the term "progressive leadership," Senator Pangilinan said that a progressive leader is forward-looking and open to new modes or modalities in learning; moreover, he/she is pro-people and pro-nation.

As to the definition of "academic freedom," and the distinction between the enjoyment of academic freedom and the exercise of academic freedom, Senator Pangilinan stated that the Constitution provides for academic freedom to be enjoyed by all institutions of higher learning. He said that the autonomy of the university vis-à-vis the State refers to decisions on academic matters that include what programs to institute, standards to formulate, and recruitment and tenure policies.

Senator Enrile asked whether academic freedom includes the teaching of any religion in the University, pointing out that while the measure seeks to develop a national university, it should allow the University to establish a theological school. Senator Pangilinan said that U.P. has not offered such programs, adding that by tradition, in the academic community in the Philippines or worldwide, a secular university does not teach religion.

Senator Enrile stated that he would support the inclusion of this concept in the charter because with its right to academic freedom, nothing would prevent the University at some future time from teaching religion and other beliefs as long as they are not inimical to peace and order in society. Senator Pangilinan said that at some future time,

U.P., under a different set of members of the Board of Regents, may provide for the program.

Asked whether the enjoyment of academic freedom or the exercise of academic freedom is a duty, Senator Pangilinan replied in the affirmative.

On another matter, Senator Enrile commended those who drafted the charter for including a provision that disallows the conferment of honorary degrees upon persons in consideration of any payment, gift or other valuable consideration. This provision, he pointed out, would prevent the U.P. from being "prostituted" like other universities which have conferred honorary doctorate degrees upon some individuals simply because they could donate millions of pesos.

Asked whether the appointing power of the President would not be involved in any way in the selection of the members of the Board of Regents and the officials who would run the University, Senator Pangilinan replied in the affirmative. He affirmed that the objective of the charter is to isolate the University from the influence of partisan politics.

INQUIRY OF THE CHAIR

Asked by the Chair whether the same procedure in the election of officials is being followed by other state colleges and universities, Senator Pangilinan replied in the affirmative, saying that it is the Board of Regents that elects the president and decides on who should sit as members of the Board. It is the intent of Congress, he underscored, to insulate state colleges and universities from partisan politics.

In this case, the Chair said that the charter of U.P. is just being aligned with the charters of state colleges and universities with respect to the election to the Board of Regents and the selection of the University president.

MANIFESTATION OF SENATOR FLAVIER

Senator Flavier manifested that Senators Pimentel, Biazon, Recto, Arroyo, Osmeña, Roxas, Magsaysay and Lacson have made reservation to interpellate on the bill next week.

AF 16

INTERPELLATION OF SENATOR GORDON

Senator Gordon observed that at present most of the students in U.P. belong to well-to-do families who graduated from very good primary and secondary schools. He also noted that the University is not exerting enough effort to upgrade the educational and teaching skills of public school teachers. He asked whether a provision had been placed in the bill that would ensure that poor but deserving students as well as teachers from poor provinces would be given a chance to study and train in the University. In reply, Senator Pangilinan admitted that at present, students who graduated from schools like Ateneo de Manila University and De La Salle University have a better chance of being admitted into U.P.

Senator Gordon argued that to improve the quality of education in the public school system, the University could accept a certain number of public school teachers or help uplift their skills if they fail to make the grade. Senator Pangilinan informed the Body that the U.P. National Institute of Science in Mathematics Education, for instance, provides instructional materials for public elementary and high school teachers.

Senator Gordon stated that since the bill would provide the University new powers to increase its resources, orientation or training programs could be implemented during summer for teachers and junior students to expose them to the U.P. system of education. He reasoned that this is one way of making the U.P. a true national and premier university in the country because it would now be able to lead and influence other colleges and universities especially in the area of teaching. Senator Pangilinan said that he would be willing to consider an amendment to Section 3 that would include support for basic education.

Senator Gordon also noted that the bill does not have a provision on continuing strategic studies program similar to those being provided in other Asian universities. He said that the program could provide studies, for example, on foreign relations and global trade which can be used by the President and the Members of Congress in making important decisions and enunciating national policies. In reaction, Senator Pangilinan pointed out that the U.P. Center for Integrative

and Development Studies conducts policy research; however, he was not aware if the research materials are being properly disseminated to individuals or groups.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1833

Upon motion of Senator Flavier, there being no objection, the Body suspended consideration of the bill.

INTERPELLATION ON THE PRIVILEGE SPEECH OF SENATOR LIM

At this juncture, the interpellation on the privilege speech of Senator Lim commenced.

INTERPELLATION OF SENATOR GORDON

At the onset, Senator Gordon commended Senator Lim for sharing his expertise on the issue of what has been happening to the Philippine National Police. In this regard, he decried the temerity of criminals nowadays, especially the killing of a high-ranking police officer of the Western Police District in front of his headquarters in full view of his men. He recalled that in the past, when a member of the Manila Police Department or MPD was killed, it was just a matter of time before the suspect was caught or killed by the police.

Asked how the temerity of criminals could be explained, Senator Lim stated that since a policeman represents government authority, one could not simply harm a policeman who is on duty because there would be an immediate retaliation against the culprit. He noted that a police officer, the most visible symbol of what government stands for, is expected to protect and defend the citizens, but if an officer gets brazenly killed and the culprit gets away with it, he surmised, the citizens do not feel safe.

Senator Lim cited the case of Jun Felizardo, who was arrested and charged for the murder of Col. Manolo Martinez, when, in fact, Felizardo was in another place at the time of the murder. He pointed out that such an alibi, if confirmed and verified, is the highest evidence that can be presented but in Felizardo's case, his arrest, he

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surmised, was simply to meet the ultimatum to produce the killer within 48 hours. He denounced the order as "stupid" because no one can predict the apprehension of a criminal nor the solution to the case. To give a time frame, he said, is to open the door to a frame-up as what happened to Felizardo, a poor barbecue vendor with no police record, who is now languishing in jail. He stressed that something must be done to protect innocent citizens from being arrested without sufficient evidence simply to satisfy public clamor.

Senator Gordon agreed that unsolved crimes embolden criminals and send a horrible message that they could spit at justice and people's freedoms. He pointed out that it is a sad commentary on a system that has failed to produce policemen who are friendly to the community that can provide information in case of trouble. In the case of Colonel Martinez, he noted the absence of information from the area as to who perpetrated the crime.

Senator Lim agreed that the arrest and filing of murder charges against Jun Felizardo is, in fact, a defense for the real killers of Colonel Martinez. He observed that such a situation might have been brought about by a deficiency in the investigative skills of the present law enforcement officers. He recalled that when the police forces were under the local city officials and the Philippine National Police was the Philippine Constabulary, the camaraderie and the "grapevine" worked -- the police asked information from people who gave helpful tips that led to the solution of a crime. He stressed that in essence, he proposed a return to the old set-up to recapture the lost *esprit de corps*.

Senator Lim lamented that when the local police force was integrated with the INP during martial law, it destroyed the essence of police work. As a consequence of the integration, he said, they lost their security of tenure and assignment so that a superior officer can reassign his subordinate at the flimsiest reason. He contended that such instability destroyed the harmonious relationship between the community and its police force which is very important in the solution of a crime. He proposed that the present law be amended to provide for a two-tiered police component: the PNP could remain as the

national police while the local police force can be reorganized by recruiting college graduates who would be under the jurisdiction of the local executive. He believed that such a set-up would enhance the peace and order situation in the country.

Senator Gordon recalled that when he was the mayor of Olongapo City, he submitted a position paper suggesting the creation of a national police force like the Philippine Constabulary while the local executives would have control of the local police. He recalled that there used to be seasoned policemen like Morales of the Manila Police, Cesar Delanon of Quezon City and Vergara of Olongapo; and if their work did not suffice, the help of the NBI, then the CIS and the Constabulary was sought. But as a delegate to the Constitutional Convention, he disclosed, he opposed the idea of a national police force because it would create a gargantuan bureaucracy which, once it becomes corrupt, affects the whole system. In the present set-up, he observed, a policeman does not stay long enough in a specific area to build the necessary connections in the community in order to combat the entrenched powers of the local underworld. He said that the murder of Colonel Martinez exposed the public to the scandalous death of a police officer in front of his new police station. He cited the case of the American government giving a one-million-dollar reward for the capture and killing of an Abu Sayyaf commander, yet no such reward was being offered in the case of Colonel Martinez. It seemed, he said, that people are already insensitive to these killings and criminals getting scot-free.

Asked about long-range solutions such as scientific or laboratory capability to enhance the crime-solving capability of the PNP, Senator Lim replied that scientific investigation is not yet fully developed in the country but it is just as important as it complements the technicalities of police work. During his time, he recalled, they did not have instant police officers as one had to rise from the ranks. He said that he started as a beat patrolman and was promoted to detective, which is the aspiration of all budding policemen. He informed the Body that the detective bureau is the elite force because people assigned there were considered experienced policemen who have learned the ropes not from

the PNP Academy but in the streets where real police work happens. Before one could be aspire for the detective bureau, he disclosed, one should have mastered the investigation process including the typing and filing of cases as well as testifying in court. The detective bureau was dissolved when the Integrated National Police was created, he said.

Senator Lim observed that what the system lacks are competent, skilled investigators who could spot a suspect because they have already developed a sixth-sense which is very essential to an investigation.

Senator Gordon observed that the Philippine National Police is designed more as a military unit rather than a civilian police force despite its civilian nomenclature. Philippine Military Academy graduates enter the PNP because they are given good positions, he said, and there is no attention to the details of becoming a good cop. He added that in the past, the police knew right away who were involved in crimes in the areas where they were assigned.

Senator Lim agreed to the observations of Senator Gordon. He said that in the past, they had the grapevine network, the policemen enjoyed the trust and confidence of the people, and there was a feeling of being safe when the policemen were around. Now, people feel apprehensive when they see a policeman, he said.

Senator Gordon wondered whether part of the problem lay in the lack of accountability in the police force. He noted that everything is so centralized that it takes the top man in Manila to give an order to solve a killing, for instance. He recalled that as Olongapo City mayor, he did not succumb to the PC-INP system as he was informed about crimes that had occurred in his city and he made sure that the policemen in charge of the area were held accountable for solving these incidents. He, however, lamented that this is not done on a national scale.

Senator Lim agreed, as he clarified that there are police chiefs or directors assigned in cities and municipalities. However, he noted that nowadays, a PNP director is like a film director who creates scenarios and produces

suspects or fall guys like Jun Felizardo. If Felizardo is brought to the city jail or to the Muntinlupa correctional facility, he warned, he might not survive long enough to be subjected to lethal injection. He stressed that he delivered his privilege speech not only to appeal but also to demand that an investigation be conducted into the PNP's habit of producing fall guys in sensational cases when it is unable to identify the real culprits. Further, he observed that a typical fall guy is someone who is poor and has no means to get the services of a lawyer. He noted that this gross violation of the person's human rights should not be tolerated.

To the Senate's credit, Senator Gordon recalled that after the privilege speech on the killings of judges and media men was made on the floor, an investigation was conducted where no less than PNP Chief Aglipay and Senator Lim were in attendance. Further, he stated that through the intervention of Senator Lim, himself and others, the suspected killer of Tanauan Judge Voltaire Rosales was captured a week later, although the suspect was able to post bail the following week. He lamented that with the suspect's arrest, the police investigators were no longer interested in the case. He also cited the case of the murdered media man in Pagadian whose killer, a renegade policeman, surrendered under pressure from the PNP. Such incidents, he said, show that the system could fix itself but it would apparently require privilege speeches and Senate investigations to call the PNP's attention to these matters. He wondered how many ordinary people have this kind of influence.

Citing the cellphone-snatching incident involving a female cab passenger traveling along Osmeña highway and that of the early morning shooting of a young woman on her way to work, Senator Gordon said that authorities cannot turn a blind eye to such crimes. He agreed with the proposal to return police control to local government units while maintaining a separate national police force.

On a related matter, Senator Lim informed the Body that former appellate court justices Dela Rama and De la Pena as well as the faculty of the Bulacan College of Law are volunteering their legal services to Jun Felizardo.

In the course of interpellation, upon his request, Senator Gordon was made coauthor of Senate Bill No. 1797.

INTERPELLATION OF SENATOR EJERCITO ESTRADA (J)

Senator Ejercito-Estrada (J) recalled that his father, former President Joseph Estrada, had signed as urgent a bill placing the police under the control and supervision of the local chief executives.

Asked if he favored such a measure, Senator Lim replied in the affirmative, adding that this was the essence of his proposal.

Asked whether the inaction of the House on the bill was indicative of the congressmen's apprehension that the mayors could form their own private armies, Senator Lim replied in the affirmative. He noted that things go awry whenever politics is injected into any action. He recalled that before 1950, all policemen were political protegés of their respective mayors. He explained that these policemen were indebted to their mayors as they were able to enter the service even though they were not civil service eligibles. Moreover, knowing that the security of their jobs lay in the hands of their mayors, he said that these policemen ended up blindly following even unlawful directives of these local executives. He said that the widespread abuse of these private armies had prompted the higher authorities to direct the Civil Service Commission to give the policemen an examination on October 7, 1950, to give them security of tenure. At present, he noted that all police officers are civil service eligibles and as such, could no longer be removed from the service at the whim and caprice of their mayors. This, he pointed out, addressed the problem of policemen being used as private armies. Nonetheless, he clarified that the bill does not totally discard the authority of the National Police Commission (NAPOLCOM) to withdraw its deputization of the local chief executives as its representatives as a means to countercheck possible abuses of mayors.

On whether under the bill, a local government unit would be able to create and fund its own

auxiliary police force, Senator Lim replied that under the bill, mayors would have the authority to hire their own policemen.

To the observation that local chief executives and governors do not have this authority at present, Senator Lim pointed out that precisely, he was proposing that the law be amended to return police control and command to local government units.

Senator Ejercito Estrada (J) recalled that as mayor of San Juan, he and then Manila Mayor Lim met with members of the PNP concerning the creation of an auxiliary police force in their jurisdiction. However, he said that the plan did not push through as other Metro Manila mayors did not have the funds to pay the proposed auxiliary police force. He asked whether Senator Lim agreed with that earlier proposal. Senator Lim affirmed that the proposal did not push through due to lack of funds. However, he observed that local government units could now fund their own police force through the Internal Revenue Allotment or the PNP funds.

Noting that President Macapagal Arroyo has continuously informed the public that the peace and order situation in the country is under control despite the killings that are occurring almost weekly, Senator Ejercito Estrada wondered whether such statement meant that she was oblivious to the real state of affairs in the Philippines. Senator Lim replied that it was possible that President Macapagal Arroyo has not been given the right information about the true state of the peace and order situation.

RESERVATION TO INTERPELLATE

Senator Pangilinan stated that Senator Villar had made reservation to interpellate Senator Lim on Tuesday, November 2, 2004.

ADJOURNMENT OF SESSION



Upon motion of Senator Pangilinan, there being no objection, the Chair declared the session

Handwritten signature/initials

adjourned until three o' clock in the afternoon of
Tuesday, November 2, 2004.

I hereby certify to the correctness of the
foregoing.

It was 6:06 p.m.


OSCAR G. YABES
Secretary of the Senate


Approved on November 2, 2004