

**REPUBLIC OF THE PHILIPPINES**

**S e n a t e**

**Pasay City**

# **Journal**

**SESSION NO. 72**

Wednesday, Thursday and Friday

March 16, 17 & 18, 2005

**THIRTEENTH CONGRESS  
FIRST REGULAR SESSION**

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**CALL TO ORDER**

At 3:29 p.m., Wednesday, March 16, the Senate President, Hon. Franklin M. Drilon, called the session to order.

**PRAYER**

Sen. Joker P. Arroyo led the prayer, to wit:

As the Lenten week draws near and the Senate deliberations on the VAT bill come to a close, we ask You, Oh, Lord, for the light and the humility to understand each other's views so that we can come up with a measure that will best serve the interest of the country and the people, conscious that our agony over this bill cannot compare with the agony of Christ in the garden of Gethsemane.

Help us, Oh, Lord, with Your guiding hand and the grace of Your presence in today's session.

Amen.

**DEFERMENT OF THE ROLL CALL**

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the roll call to a later hour.

**DEFERMENT OF APPROVAL OF THE JOURNAL**

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the consideration and approval of the Journal of Session No. 71 to a later hour.

**DEFERMENT OF THE REFERENCE OF BUSINESS**

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the Reference of Business to a later hour.

**QUESTION OF PRIVILEGE OF SENATOR EJERCITO ESTRADA (J)**

Rising to a question of personal privilege, Senator Ejercito Estrada (J) criticized the move of Malacañang to extradite Charlie "Atong" Ang.

The full text of his speech follows:

**PRESIDENTIAL PARDON: POWER OR ABUSE**

I rise to condemn the systematic and flagrant misuse and abuse by this administration of our democratic institutions in oppressing its political enemies.

The so-called Strong Republic has evolved and mutated instead into a Republic for the Strong, where might makes one right.

Under this dispensation, our government has degenerated into a republic where only those with strong and close connections with the powers that be are afforded the full protection of the law.

On the other hand, the ordinary citizens, the common *tao*, those who do not have influence or access to political and economic power are made to suffer government abuse and injustice. The ordinary citizen in this hapless and forsaken land must wallow in the quagmire of government neglect and indifference.

Those righteous and law-abiding citizens who vigorously opposed the excesses of this administration are subjected to numerous harassment, oppression and character assassination.

This present administration today has again abused its executive privilege by pawning part of this country's sovereignty to a foreign power in order to tactically cripple the unifying symbol of the political opposition.

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I refer to the undertaking executed by Mrs. Glorial Macapagal Arroyo when she unilaterally bargained and compromised Philippine laws, and with it, Philippine sovereignty. Mrs. Arroyo committed herself to concerned authorities of the government of the United States of America that in exchange for the extradition of Mr. Charlie "Atong" Ang, the death penalty will be waived in the event he is convicted here in the Philippines.

Mrs. Arroyo unduly committed our government to the United States just to secure the extradition of Mr. Charlie "Atong" Ang, a Filipino citizen who is the subject of a request for extradition from the United States of America to the Philippines, for the crime of plunder punishable by *reclusion perpetua* to death under Section 2 of Republic Act No. 7080, as amended by Republic Act No. 7659.

A document signed by Mrs. Arroyo and attested to by then Executive Secretary, and now Foreign Affairs Secretary Alberto Romulo, was transmitted to then Secretary of Justice Simeon Datumanong on 9 October 2003.

This document was authenticated by Justice Undersecretary Merceditas Gutierrez on 17 October 2003, for transmittal to the United States Embassy in Manila, where it was received by the U.S. Consul General David Donahue on 24 October 2003.

Finally, an authenticated certified true copy thereof was later transmitted by the Philippine Embassy in Washington, D.C. to the U.S. State Department on 12 November 2003.

According to this administration, this undertaking was executed pursuant to Article 5 of the RP-U.S. Extradition Treaty.

Paragraph 1 thereof permits the requested State — meaning, the United States of America or Las Vegas, Nevada — to refuse extradition when the offense for which extradition is sought is punishable by death in the requesting State — meaning, the

Philippines — but not in the requested State, unless the requesting State provides assurances that if death penalty is imposed, it will not be carried out.

Moreover, the President's assurance is also premised on the Executive's prerogative to grant pardon under the 1987 Constitution.

*Ayon sa kanila, ito po ay legal at naaayon sa batas at sa Konstitusyon.*

While I have no argument against the President's use of her power to grant executive clemency, the use thereof must be tempered with the end in view that national interests shall be served.

*Sa kaso pong ito, ako po ay walang nakikitang malinaw at katangi-tanging interes para sa bayan na nakataya maliban na lamang kung ang personal na interes ni Ginang Arroyo ay siya rin nating ituturing pambansang interes.*

Her assurance that the Executive branch will not carry out the death sentence is tantamount to abandoning her sworn duty to uphold the laws of the land, which includes the punishment of the guilty.

It is no secret that the forces cowering behind the walls of Malacañang have always feared the eventual acquittal of President Joseph Estrada of the unfounded charges leveled against him before the Sandiganbayan.

The fear was further fuelled when, despite Mrs. Arroyo's attempts at saving face amidst successive blunders and mistakes, the country still confronted a rising unemployment rate, a burgeoning and restive workforce, higher taxes, a depleted national coffer, and a morally bankrupt bureaucracy.

And devoid of any moral compass, this administration has made a deal with a foreign government and in so doing, mortgaged its sovereign right just so it could extradite Mr. Atong Ang to the Philippines.

The government, in its desperate attempt to cling to power which is spuriously

obtained, is seeking Ang's extradition from Las Vegas, Nevada, to help the very, very incompetent Special Prosecutor to convict President Joseph Ejercito Estrada, whose popularity has been rising despite his unwarranted detention, while Mrs. Arroyo, despite frantic efforts from PR machinery, continues to nose-dive.

*Dahil po sa patuloy na pagbulusok ng kredibilidad at integridad ni Ginang Arroyo, siya po ay nagiging desperado at lalong nagiging marahas sa adhikain nilang manalo sa Sandiganbayan.*

The question that festers in my mind and in the minds of law-abiding citizens of this proud nation is this: Is this administration that continuously shouts to the high heavens that it has the economy and the country on the road to the promise land, so obsessed in keeping itself in power that it would resort to anything, give anything, in order to remove any and all obstacle that comes its way?

*Sa tingin ko ibibigay lahat ni Ginang Arroyo maipagpatuloy lamang ang kanilang pagluklok sa kapangyarihan.*

This is the master coup this administration is attempting to undertake.

But the more important question that I would like to posit to this morally bankrupt administration is this: Why is this government so desperate in its attempt to push through with the extradition and at what cost? Who is Mr. Atong Ang to merit presidential attention? As we always say, "there is no such thing as a free lunch." I do not have a malicious mind, but this situation would perhaps trigger a playful imagination even in the most conservative of human minds.

This *Get Out of Jail Free* card that Mrs. Arroyo has so generously offered has severe repercussions to our criminal justice system.

It effectively rewards the criminal and sends a clear and loud message to all criminals that so long as you tow the administration line, one can with impunity.

Worse, this offer by Mrs. Arroyo, unprecedented in its generosity, has raised this issue to a whole new level. Mrs. Arroyo has made this fight personal.

*Hindi na po trabaho lang, personalan na!*

In her desperate attempt to silence the unifying force for the opposition so as to consolidate her hold onto power, Mrs. Arroyo has abused her privilege under the Constitution and used it as a means to oppress and perhaps interfere with the judicial process currently underway.

In assuring the United States that the death penalty will not be carried out, she has, in effect, preempted the Judicial branch of this government of its prerogative equally granted and protected under our fundamental law.

Through her actions, she has made a mockery of the judicial process enshrined not only in our fundamental law but in the Filipino way of life.

*Nguni't tila hindi po nakuntento si Ginang Arroyo sa kanyang pagwawalangbahala sa proseso ng ating hudikatura kundi ito ay nakikialam pa.*

She has unduly interfered in what is heretofore a purely judicial process and has made whatever the outcome of such process moot and academic.

Worse, she has announced to the entire world that our time-honored judicial system can be set aside for the simple expediency of political power. This is a classic example of the famous line - "Absolute power corrupts." But in her case, it has corrupted her absolutely.

While people in Malacañang will state that the action of the President is, on its face, legal, the more important issue that I submit to this august Chamber is: Is this wheeling and dealing, this culture of horse-trading, that Malacañang has eagerly brokered moral?

Is she not adopting a double standard as far as the case pending at the Sandiganbayan is concerned?

Spare Atong Ang so long as President Estrada is incarcerated? Where is justice?

This latest attempt by Mrs. Arroyo to use government resources and institutions to harass and ensure the conviction of President Estrada at the Sandiganbayan at all cost has sent a strong message to all peace-loving Filipinos – this administration will take whatever means necessary to perpetuate itself in power.

No one, and they mean no one, will stand in their way to hold on to power.

In trying to compromise our laws, Mrs. Arroyo has done irreparable injury to every Filipino today and to those yet to be born.

I just received a news report that no visitors again are allowed entry into the Tanay detention center of my father for no reason whatsoever. And according to the Philippine National Police, even my mother, even the members of the immediate family are already barred entry in our Tanay resthouse. I do not find any substantive reason why they should bar even my mother to enter the Tanay detention center.

According to reliable sources, the authorities, meaning the Philippine National Police, made this move to silence me in the Senate. *Nabalitaan ko po kanina na ginigipit si Pangulong Joseph Estrada sapagkat lagi raw po akong nagsasalita laban dito sa gobyernong ito. Lagi raw po akong nagsasalita tungkol sa mga exposés ko sa Pagcor. Kaya iyon po ang isinagot nila sa akin na kahit sino, kahit mga kapatid ko, kahit ang sarili kong ina ay hindi na raw puwedeng pumasok sa Tanay detention center.*

*Iyon lamang po ang aking nais ipagbigay-alam dito sa Senado.*

## 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.
Biazon, R. G.	Lapid, M. L. M.
Cayetano, C. P. S.	Lim, A. S.
Drilon, F. M.	Magsaysay Jr., R. B.
Ejercito Estrada, J.	Pangilinan, F. N.
Ejercito Estrada, L. L. P.	Pimentel Jr., A. Q.
Enrile, J. P.	Recto, R. G.
Flavier, J. M.	Revilla Jr., R. B.
Gordon, R. J.	

With 17 senators present, the Chair declared the presence of a quorum.

Senators Angara, Madrigal, Osmeña, Roxas and Villar arrived after the roll call.

Senator Defensor Santiago was absent on account of illness.

## REFERENCE OF BUSINESS

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

### BILL ON FIRST READING

Senate Bill No. 1963, entitled

AN ACT PROVIDING FOR THE PAYMENT OF THE ADMINISTRATIVE TOTAL DISABILITY PENSION TO SENIOR VETERANS OF WARS AND MILITARY CAMPAIGNS

Introduced by Senator Luisa "Loi" P. Ejercito Estrada

To the Committees on National Defense and Security; and Finance

## RESOLUTIONS

Proposed Senate Resolution No. 215, entitled

RESOLUTION URGING THE SENATE COMMITTEE ON HEALTH AND DEMOGRAPHY TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE INDISCRIMINATE AND WIDESPREAD USE OF INFANT MILK FORMULA IN THE COUNTRY AND ITS ADVERSE

**IMPACT ON THE DEVELOPMENT  
OF FILIPINO INFANTS AND  
CHILDREN**

Introduced by Senator Mar Roxas

**To the Committees on Health and Demography; and Youth, Women and Family Relations**

Proposed Senate Resolution No. 216, entitled

**RESOLUTION DIRECTING THE  
COMMITTEE ON BANKS,  
FINANCIAL INSTITUTIONS AND  
CURRENCIES TO CONDUCT AN  
INQUIRY ON THE FEES AND  
CHARGES IMPOSED BY BANKS  
UPON REMITTANCE TRANSFERS  
BY FILIPINO MIGRANT WORKERS  
SENDING MONEY TO THEIR  
FAMILIES IN THE PHILIPPINES**

Introduced by Senator Mar Roxas

**To the Committees on Banks, Financial Institutions and Currencies; and Labor, Employment and Human Resources Development**

**APPROVAL OF THE  
JOURNAL OF SESSION NO. 71**

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 71 and considered it approved.

**INTERPELLATION ON THE  
QUESTION OF PRIVILEGE  
OF SENATOR EJERCITO ESTRADA (J)**

Thereafter, the Body proceeded to the interpellation on the question of personal privilege of Senator Ejercito Estrada (J).

**INTERPELLATION  
OF SENATOR PIMENTEL**

Asked by Senator Pimentel whether it was true that the authorities were prohibiting the Estrada family members from visiting the former president in his Tanay property, Senator Ejercito Estrada (J) replied in the affirmative.

Senator Pimentel pointed out that the government does not own the property, thus, it has no right to prevent the Estrada family members from visiting it. He believed that preventing the owners from visiting their property without due process is the most authoritarian way of dealing with the situation.

Asked if the authorities have explained why the Estrada family members are being prevented from visiting the property, Senator Ejercito Estrada (J) revealed that in a telephone conversation, newly appointed PNP Chief, Director General Arturo Lomibao explained that no one is being allowed inside the property because of the red alert status and intelligence reports that terrorists might launch an attack on the premises.

Senator Pimentel said that the red alert status is beside the point because the facility does not belong to the government. He opined that the confinement of the former President in Tanay was, in fact, a favor to the government since it does not have to pay for electricity, food and other amenities. He disclosed that very recently, the British Parliament was in the process of revising its anti-terrorist legislation, and one of the suggestions was to place suspects under house arrest. He said that many objected to the suggestion precisely because it would convert a private property into a public facility without payment of just compensation. He lamented that General Lomibao, who was only a day in office, had already caused the death of 23 persons, as he surmised that the general was under tremendous pressure from Malacañang.

Senator Pimentel urged Senator Ejercito Estrada (J) to stand up and speak out while there is time to speak out—no matter how difficult life might become for his father—because President Marcos committed the greatest crime during martial law when he took that freedom away. In this regard, he stated that it behooves the Senate to caution General Lomibao not to complicate things for himself by following an unlawful order. He believed that only a dictatorship could prevent people from accessing their own residences in the guise of an anti-terrorism measure. He asked the Body to support the call to remove the restriction, at the very least. Senator Ejercito Estrada (J) asserted that the prohibition violates Republic Act No. 7438 which defines the rights of arrested and detained persons.

On another matter, Senator Pimentel asked on the veracity of the report about the U.S. government's request that Atong Ang not be subjected to the death penalty which, incidentally, he opposed. He said that he found it strange that the U.S. would take such stance when some of its states execute criminals. In reply, Senator Ejercito Estrada (J) disclosed that the State of Nevada does not have the death penalty. He informed the Body that he has a copy of the undertakings signed by President Macapagal Arroyo with the U.S. government. Senator Pimentel requested that every senator be provided a copy thereof.

#### REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Pangilinan, there being no objection, the Chair referred the speech of Senator Ejercito Estrada (J) and the interpellation thereon to the Committee on Justice and Human Rights.

#### ANNOUNCEMENT OF SENATOR PANGILINAN

Senator Pangilinan announced that as agreed upon the previous day in an informal discussion with the Minority, represented by Senator Pimentel, the session would be suspended to give way to a caucus in the Senators' Lounge to discuss the schedule of the VAT debates.

#### SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended to allow the senators to go into caucus.

*It was 3:59 p.m.*

#### RESUMPTION OF SESSION

At 5:11 p.m., the session was resumed.

#### COMMITTEE REPORT NO. 16 ON SENATE BILL NO. 1950

*(Continuation)*

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1950 (Committee Report No. 16), entitled

AN ACT AMENDING SECTIONS 27, 28,  
34, 106, 108, 109, 110, 111, 112, 113,  
116, 117, 118, 119, 125, 148, 236, 237,

AND 288 OF THE NATIONAL  
INTERNAL REVENUE CODE OF  
1997, AS AMENDED, AND FOR  
OTHER PURPOSES.

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

#### MANIFESTATION OF SENATOR PANGILINAN

Senator Pangilinan stated that in the caucus earlier, the senators agreed to proceed with the interpellations on the bill today until Friday as he added that Senate President Drilon, Senators Recto, Osmeña, Pimentel and Madrigal, among others, would be meeting with the Secretary of Finance to discuss the issues and address the concerns relative to the measure.

Thereafter, the Chair recognized Senator Recto, Sponsor of the measure and Senator Ejercito Estrada (J) for his interpellation.

#### INTERPELLATION OF SENATOR EJERCITO ESTRADA (J)

Senator Ejercito Estrada (J) inquired why the bill is unpopular, as he noted that several sectors have actively opposed its passage. Senator Recto explained that any tax measure, especially a consumption tax like the VAT that is applicable to all goods and services consumed domestically, would hit everyone. He added that no one wants to pay additional taxes.

Asked if the VAT bill is anti-poor because its passage into law would result in higher prices of basic commodities, Senator Recto stated that it does not necessarily follow. He believed that if the fiscal deficit is addressed and the government borrowings are reduced, then the VAT would benefit the future generations and moreover, there is a good chance of the peso appreciating because there would be more confidence in investing in the Philippine economy. He added that once the peso appreciates, prices of goods and services would also go down. On the other hand, assuming that a good revenue measure is not passed and there is no effort to address the fiscal problem, he said that the peso could depreciate, more Filipinos would live in poverty, and unemployment could rise.

On whether the VAT bill is connected to the appreciation of the peso, Senator Recto clarified that

the bill is connected to the macroeconomic stability that helps the peso to appreciate. However, he pointed out that there are many factors, foremost of which is competitiveness, that are involved in the fluctuation of the value of the peso. For instance, he pointed out that if there is no confidence to invest in the Philippines owing to the fiscal deficit that arose from borrowings, the condition of the peso vis-à-vis the dollar would be exacerbated. However, he pointed out that if issues on competitiveness and deficit and revenue concerns are properly addressed, greater confidence in the economy would bring in more investments that would trigger the appreciation of the peso.

On the concerns of the sectors that had strong reservation on the VAT bill, Senator Recto said that it was the consumer groups, not the business group, that are basically against the VAT. He disclosed that consumer advocate Raul Concepcion, who proposed different tax rates, was against the increase but not the lifting of the exemptions.

Asked if the Committee adopted the proposal of Mr. Concepcion, Senator Recto replied that it did not because he found a way of having a single efficient VAT rate that would temper the impact on consumers through the reduction of the excise taxes on petroleum products and the removal of the franchise tax on power utilities. He informed the Body that according to the National Statistics Coordinating Board, the 10% proposal is four times less inflationary than the 10% to 12% proposal of the Executive department.

On whether the Committee considered the views of the consumer groups, Senator Recto stated that in general, said groups are against the 10% to 12% VAT and a number of them, including cooperatives, are also opposed to lifting the exemptions.

Asked why the Committee did not lift the exemptions on other cooperatives, Senator Recto reasoned that if VAT is imposed on power and electric cooperatives, then no other cooperatives should be exempted.

Senator Ejercito Estrada (J) observed that the bill lifted exemptions on several sectors and retained exemptions for others. Asked about the basis for selecting the sectors to exempt, Senator Recto explained that the Committee wanted to complete the VAT chain to make the VAT system work

\*properly and it thought of lifting exemptions, among them on petroleum and power because these are upstream industries that are first in the VAT chain. He added that he would rather have a threshold than to have exemptions. He cited a paragraph in the proposed amendment to Section 109 of the NIRC that even if transactions on goods or services shall be exempt from VAT, there still remains a choice of being VAT-registered. He expressed confidence that eventually, when the public and the taxpayers are educated on the mechanisms of VAT, they would know how VAT operates properly and what good it would do the economy.

On the concern that the lifting of exemptions on art, literary works and musical compositions would stifle cultural development, Senator Recto pointed out that the lifting of the exemptions is dependent on the threshold as gross sales of more than P750,000 is subject to VAT.

On how the P750,000 threshold was formulated, Senator Recto stated that under the existing law, the threshold is P550,000, so if the current Consumer Price Index (CPI) is applied, the threshold is P750,000. As regards the suggestion to increase the threshold to P900,000, Senator Recto pointed out that it could be increased to P1.2 million.

Noting that the present tax system has been criticized as being wieldy and complicated, Senator Ejercito Estrada (J) queried whether the bill would contribute to the effort to simplify the tax system. Senator Recto replied that provided in the bill is the conduct of an education program to explain how the VAT operates. He added that he precisely supports a higher threshold so that the program would be limited to people who belong to the higher threshold as he suggested that the auditors and the collectors be also included in the program.

On whether the bill would make the system more predictable for households and businesses, Senator Recto replied in the affirmative.

As regards the amount to be raised from the proposed Act, Senator Recto clarified that at 100% efficiency, the net is P66 billion. He posited that it is hard to determine how much the House version would make because it has a multi-rate and multi-tier system. However, he stated that as far as the DoF is concerned, the target of P71 billion is risky because it does not provide for any reduction



in excise taxes on power and petroleum products and it has a lower tax rate for both. Further, he pointed out that the Executive department wanted to collect as much as it could to reduce the budget deficit and the national debt and spend more on development projects.

Asked whether the government would pass another tax measure if it failed to meet its revenue target, Senator Recto pointed out that the agreement between the Executive department and the legislators is to generate P80 billion through new revenue measures. He explained that since the sin taxes and the lateral attrition would contribute P15 billion and P10 billion, respectively, P 55 billion is expected from the VAT bill.

Asked whether the government met its targets under previous tax measures, Senator Recto stated that the government failed to hit its goal from 2001 to 2003 during which, the biggest deficits were recorded.

On the remedial measures instituted to bridge the deficit, Senator Recto mentioned that one of the steps the government has taken is the lifestyle check of government officials to curb corruption. He noted that there are many solutions to the problems – reducing graft and corruption, reducing expenditures, spending wisely and passing new revenue measures.

Emphasizing the diminishing purchasing power of the peso as the prices of major commodities increase, asked by Senator Ejercito Estrada (J) if it is the right time to pass the VAT bill, Senator Recto replied that it has always been difficult and challenging to enact new tax measures.

Asked whether the bill would contribute to the plugging of loopholes in the tax system, Senator Recto replied in the affirmative, pointing out that government would be collecting more revenues because of the lifting of certain exemptions while maintaining a single VAT rate of 10%.

Senator Ejercito Estrada (J) enumerated the following revenue measures of the Arroyo administration with their respective revenue estimates: indexation of excise taxes on tobacco and alcohol, P7 billion; raising of oil tariffs from 3% to 5%, P11 billion; increase of VAT rate to

- 12%, P34.7 billion; expansion of VAT coverage, P17.4 billion; and rationalization of fiscal incentives, P5 billion.

Asked if he is aware of the additional excise tax of P2.00 on petroleum products, Senator Recto said that it would not push through because the Executive department misjudged projections from the beginning.

On whether the proposal to tax telecommunications was shelved after a dinner meeting between President Macapagal Arroyo and the top telecommunications executives, Senator Recto replied that there was a decision to tackle first the more difficult measure that would bring in greater revenues which is the VAT.

Pointing out that the Committee recommended the lifting of VAT exemptions on power, fuel, airlines and shipping fares, and day and night clubs, Senator Ejercito Estrada (J) asked whether there are really establishments classified as “day clubs.” Senator Recto said that according to the Code, there are indeed day clubs.

Asked whether the passage of the measure would not have any adverse impact on the people, particularly the *masa*, Senator Recto stated that if the Body agrees to a VAT rate of 12%, it is possible the people would go on strike.

On whether the Senate version is pro-poor in view of the fact that basic necessities would not be affected by the VAT, Senator Recto believed that it is fairer than the House version in the sense that the burden is shared between the consumers and businesses by increasing corporate income tax rates, spreading input crediting to five years, and tempering the impact on petroleum products more than electricity. The Committee, he said, is willing to give up P11.5 billion in excise taxes on petroleum products, particularly diesel, LPG, and bunker fuel, and reducing franchise tax on power utilities by P5.7 billion.

As regards the collection efficiency rates on VAT since the enactment of the NIRC, Senator Recto informed the Body that the imposition of VAT yielded P115 billion in 2002 with a growth rate of 8.29%, P127 billion in 2003 with a growth rate of 10.1%, and P139 billion in 2004 with a growth rate of 9.4%.

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Asked how much government is expected to collect this year once the measure is passed into law, Senator Recto said that the collection could possibly reach P33 billion for the last six months of the year, assuming that the law is implemented on July 1, 2005.

With regard to statistics comparing the Philippines to neighboring countries that utilize the same system, Senator Recto stated that it would be best for the Philippines to adopt a VAT rate of 10%, pointing out that the average VAT rate in the region is 10.4%, with China on top at 17.5%; Thailand, 7%; and Singapore, the lowest at 3%. The Philippines, he said, does not lag behind Thailand and Indonesia in terms of the total tax revenue as a percentage of GDP which is between 20% and 25%.

Asked what measures the DoF would undertake to address the perennial problem of high tax gaps with VAT collection and thereby improve the tax collection efficiency, Senator Recto said that the first step is to adopt the Senate version that provides the proper policy framework. He added that there are certain administrative measures that the DoF could undertake aside from the implementation of the Reconciliation of Listings for Enforcement (RELIEF) project, which is helping the BIR in collecting taxes and addressing leakages in the system.

Senator Ejercito Estrada (J) asked whether corporations found to have violated tax laws have been charged accordingly. Senator Recto replied that following the implementation of the RELIEF project, 80 corporations have already been charged. He said that the BIR would furnish Senator Ejercito Estrada (J) with the necessary information.

On the rationale for the proposed increase of corporate income tax rate from 32% to 35%, Senator Recto stated that while the Committee is just restoring the old corporate income tax rate of 35% until 2008, it would like to show the public that there is a burden sharing between consumers and businesses.

As regards the basis for the reduction of the corporate income tax rate from 35% to 30% starting January 1, 2009, Senator Recto pointed out that the Philippines has one of the highest corporate income tax rates in the region as he noted that in China, it is 30%; Indonesia, 30%; Malaysia, 28%; Thailand,

30%; and Vietnam, 32%, although the corporate income tax in the Philippines is a flat tax. He said that he would furnish Senator Ejercito Estrada (J) with a copy of the rates.

On whether the economy would improve and the fiscal deficit would be wiped out in 2008, Senator Recto expressed hope that the economy would improve, but certainly, he said, the fiscal deficit would be on a more manageable level.

Asked whether the short-term, one-time proposal would be advantageous to government in the long run, Senator Recto believed that the bill is not a short-term proposal as he expressed hope that it would benefit government in the short term and long term.

As regards the expected revenue collection based on the proposed increase of corporate income tax rate from 32% to 35%, Senator Recto said that based on 2004 figures, it is P12.3 billion.

Asked how many local and foreign corporations would be subject to the increase, Senator Recto replied that the top 1,000 corporations would pay about 56% of the projected total corporate income tax, a list of which the BIR would provide Senator Ejercito Estrada (J).

Asked what the DOF has been doing about the falsification of income tax documents or the misdeclaration of income tax being committed by corporations, Senator Recto replied that the BIR has been utilizing the RELIEF system as well as tax mapping to determine whether a corporation is paying the correct tax or not.

On whether the BIR has prosecuted any corporation for understating its corporate income, Senator Recto replied that the BIR has sent these corporations assessment notices.

On the names of top corporations that were charged with falsification of income tax documents, Senator Recto said that the BIR would provide the information tomorrow. He clarified that the BIR Deputy Commissioner would rather submit the names than divulge them during the proceedings. Nonetheless, he cited that one of the corporations is Cellpage which is engaged in the sale of prepaid cellphone cards. He added that Cellpage had understated hundreds of millions of pesos in income.

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Senator Ejercito Estrada (J) commented that if the BIR Deputy Commissioner would submit the names tomorrow morning, he would now suspend his interpellation for the time being.

#### **INTERPELLATION OF SENATOR LACSON**

Senator Lacson manifested that he would attend the meeting between some of the senators and officials of the DOF and BIR tomorrow where some of his concerns may be addressed.

Asked to clarify his statement that the Philippines has the lowest corporate income tax rate in Asia, Senator Recto corrected that the corporate income tax rate in the Philippines is one of the highest in Asia. In this regard, he disclosed the corporate income tax of the following countries: India, 35%; Australia, 30%; Cambodia, 20%; Hong Kong 17.5%; Indonesia, 30%; and Japan, 30%, as he added that in the Philippines, it is 32%.

#### **REMARKS OF SENATOR PANGILINAN**

At this juncture, Senator Pangilinan informed the Body that Senators Madrigal and Osmeña had made reservations to continue with their interpellations at a later date.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1950**

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

#### **ADDITIONAL REFERENCE OF BUSINESS**

The Secretary of the Senate read Proposed Senate Resolution No. 217 which the Chair referred to the Committee on Cooperatives:

Proposed Senate Resolution No. 217, entitled

**RESOLUTION URGING THE SENATE COMMITTEE ON COOPERATIVES AND OTHER APPROPRIATE COMMITTEE/S TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGATIONS OR COMPLAINTS OF CORRUPTIONS AND ANOMALIES PERVADING A**

#### **NUMBER OF COOPERATIVES WITH THE END IN VIEW OF CHARTING REMEDIAL MEASURES ADDRESSING THE SITUATION**

Introduced by Senator Magsaysay Jr.

#### **COMMITTEE REPORT NO. 13 ON SENATE BILL NO. 1936 (Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1936 (Committee Report No. 13), entitled

#### **AN ACT ESTABLISHING A CREDIT INFORMATION SYSTEM, AND FOR OTHER PURPOSES.**

Senator Pangilinan stated that the parliamentary status was the period of interpellations.

Thereupon, the Chair recognized Senator Angara, Sponsor of the measure, and Senator Roxas for his interpellation.

#### **INTERPELLATION OF SENATOR ROXAS**

At the onset, Senator Roxas pointed out that at present, the Credit Investigation Bureau Incorporated provides the same service that the proposed Bureau intends to provide to the credit community. He asked why the private initiative failed and why it is necessary for the government to give the same service. Senator Angara replied that based on experience, the credit information that CIBI gathers is at best sketchy and does not help the lending institutions in assessing the risks, thus, the bill "compels" the Bureau to give credit providers the needed information.

On whether the creditors themselves did not find it useful to voluntarily make available the information to the entire banking and credit community, hence, the need for legislation, Senator Angara affirmed, stating that with the law and support of the *Bangko Sentral ng Pilipinas*, the Bureau would have credibility and clout.

On whether the BSP charter does not allow it to establish the Bureau, Senator Angara informed the Body that the Committee studied the BSP

charter as well as the General Banking Act and asked the opinion of Central Bank officials who concurred that there is need for a legislative mandate to enable the Bureau to perform the task.

Senator Roxas explained that he wanted to put in the record that the bankers themselves would not voluntarily make credit information more accessible to the business, farming, and other sectors which, in fact, is impeding part of the nation's development agenda.

Noting that the objectives of the Bureau, among others, are to widen the base of creditworthy persons and institutions, and make credit information more accessible, Senator Angara believed that with the law, the credit-extending institutions would now be in a better position to manage the risks.

In regard to Section 3 (*Definition of Terms*) on credit information, Senator Roxas asked whether the proviso on page 2, lines 13 to 17, means that in the absence of a written waiver from the borrower, the Bureau cannot provide confidential information to a credit institution. Senator Angara replied in the affirmative, stating that the restrictions imposed by the Bank Secrecy Law, the Foreign Currency Deposit Act and the General Banking Law that one cannot look into anyone's deposit without his/her written consent must be obeyed.

On whether there would be two sets of information, one that would be mandatorily provided by the banks and credit companies and another that would require the borrower's consent, Senator Angara replied in the affirmative.

Upon further query, Senator Angara confirmed that the implementing rules and regulations would define what are mandatory information and secret/confidential information.

Senator Roxas queried whether there are mechanisms to ensure that the borrowers would provide accurate information or if such would be covered by the implementing rules and regulations, Senator Angara disclosed that when this matter was brought up during the hearing, the response of the BSP officials was that the details could be provided for in the IRR.

Senator Roxas observed that a look at the intent of the legislation would show its sensitivity to the

accuracy of the record, for instance, as to why someone defaulted on the payment of a loan eight years ago and the reason therefor could be ascribed to the Asian financial crisis. However, he averred that if the form does not allow the circumstances to be looked into, then it might portray a negative impression when in truth, the default would have been considered normal in the context of the financial crisis.

Senator Angara agreed as he said that the proposed Act is sensitive to the need for accurate credit information regarding any person or borrower and the unauthorized disclosure of any credit information. He pointed out that the bill provides for a system of sanctions on violations of the restrictions.

On whether accuracy of information includes, among others, the context in which events have taken place and stipulations of credit agreements or covenants that may not have been complied with, Senator Angara replied in the affirmative. He stated that at any time, the borrower could demand to see his credit information and correct the same, hence, if he wants to reflect in the record the context in which he defaulted on a payment, the credit information holder has no reason not to comply with the request.

Asked whether the first sentence of Section 4(d)(vi) that states, "The Borrower shall have ready access to the credit information pertinent to him" could be further strengthened so that the borrower can get the information on demand, Senator Angara replied in the affirmative, stressing that as a matter of right, the borrower should have ready and quick access to the information.

Pertinent to the correction of an erroneous credit information, Senator Roxas asked what mechanism would be used in case a dispute arises relative to the correction to be reflected in the record. He noted that in the example cited, the borrower could claim he never defaulted on payment but the record could show there was a breach of the terms of the agreement. Senator Angara replied that there is no mechanism for the settlement of a dispute other than proof that the information is wrong, in which case, the borrower is entitled to indemnity. He gave assurance that the Committee would accept a mechanism to break any disagreement without converting the Bureau into a dispute settlement entity.

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Senator Roxas underscored that a process should be provided to ensure that a legitimate borrower would not be unnecessarily deprived of a credit that is possibly crucial to him. In response, Senator Angara suggested the inclusion of a provision to the effect that in case of any disagreement between the borrower and the credit information holder, the doubt should be resolved in favor of the borrower's claim.

Senator Roxas expressed concern that since the information on any borrower goes into a central pool, a lender who had a bad relationship with a particular borrower could poison the information. He stated that such negative information would disadvantage the borrower. He observed that at present, lenders share information during meetings, for instance, of the Bankers Association of the Philippines or the Rotary Clubs. Absent such a negative information on the borrower, he noted that the lender could properly assess him. He clarified that his concern arises from the fact that the borrower, owing to a bad outcome of a previous transaction, could create a negative impression among the lenders. Senator Angara stated that a borrower would be given ready access to the information precisely to enable him to correct the negative information; otherwise, it would be perpetuated bank-after-bank or creditor-after-creditor. He noted that at present, banks operate on a system of negative information, hence, the creditworthiness of the borrower is not being properly assessed.

Senator Roxas suggested that the information to be submitted to the Bureau be limited to facts or objective information without a subjective explanation that could be the source of dispute. Senator Angara expressed openness to accept any appropriate language that shall serve as an instruction to the Bureau.

On whether violation of confidentiality could be considered a criminal offense, Senator Angara replied that in addition to administrative sanctions, Section 10 provides that, "Any person who violates any of the provisions of this Code or the rules and regulations promulgated by the Monetary Board under authority thereof shall, upon conviction, suffer a fine of not less than Fifty Thousand Pesos (Php50,000) nor more than One Million Pesos (Php1,000,000) or imprisonment of not less than one (1) year nor more than five (5) years, or both, at the discretion of the court."

Senator Roxas commended Senator Angara for his efforts in facilitating the flow of more credit through the system by means of an objective and transparent source of information.

#### **RESERVATION TO INTERPELLATE**

At this point, Senator Pangilinan stated that Senators Osmeña, Villar, Arroyo and Cayetano had made reservations to interpellate on the bill at a later date.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1936**

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

#### **CORRECTION IN REFERRAL**

Upon motion of Senator Pangilinan, there being no objection, the Chair referred Proposed Senate Resolution No. 83 (2005 SEA Games) only to the Committee on Games, Amusement and Sports.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, there being no objection, the Chair declared the session suspended until three o'clock in the afternoon of the following day, March 17, 2005.

*It was 6:25 p.m.*

#### **RESUMPTION OF SESSION**

At 4:29 p.m., Thursday, March 17, the session was resumed with the Senate President, Hon. Franklin M. Drilon, presiding.

#### **COMMITTEE REPORT NO. 16 ON SENATE BILL NO. 1950**

*(Continuation)*

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1950 (Committee Report no. 16), entitled

AN ACT AMENDING SECTIONS 27, 28, 34, 106, 108, 109, 110, 111, 112, 113, 116, 117, 118, 119, 125, 148, 236, 237, AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF

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**1997, AS AMENDED, AND FOR OTHER PURPOSES.**

Senator Pangilinan stated that the parliamentary status was still the period of interpellations. He recalled that yesterday, Senators Ejercito Estrada (J), Lacson, Madrigal, and Osmeña had expressed their desire to interpellate on the bill; however, he said that after the meeting with the Finance Secretary and BIR Commissioner and officials, Senators Ejercito Estrada (J) and Lacson had agreed to terminate their interpellations but would introduce amendments at the proper time.

On the other hand, he stated that Senator Madrigal had requested certain documents that the BIR would submit within the day and to give her enough time to study the said documents, the interpellation on the bill would be resumed the following day.

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, there being no objection, the Chair declared the session suspended until three o'clock in the afternoon of the following day.

*It was 4:32 p.m.*

**RESUMPTION OF SESSION**

At 4:00 p.m., Friday, March 18, 2005, the session was resumed with Senate President Drilon presiding.

**SECOND ADDITIONAL REFERENCE OF BUSINESS**

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

**MESSAGE FROM THE HOUSE OF REPRESENTATIVES**

Letter from the Secretary General of the House of Representatives, transmitting to the Senate the attached letter dated March 9, 2005 of the Honorable Speaker Jose De Venecia Jr., addressed to the Honorable Senate President Franklin M. Drilon, informing the Senate of the designation of Representatives Cua, Diaz and Andaya Jr. as members of the House Panel in

the Congressional Oversight Committee created pursuant to Section 35 of R.A. No. 8792 (Electronic Commerce Act of 2000).

**To the Committee on Rules**

**BILLS ON FIRST READING**

Senate Bill No. 1964, entitled

AN ACT GIVING OFFENDERS THE FULLEST BENEFIT OF PREVENTIVE IMPRISONMENT, AMENDING FOR THE PURPOSE ARTICLE 29 OF REPUBLIC ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES

Introduced by Senator Angara

**To the Committees on Justice and Human Rights; and Constitutional Amendments, Revision of Codes and Laws**

Senate Bill No. 1965, entitled

AN ACT EQUALIZING THE LONGEVITY PAY OF PUBLIC SCHOOL TEACHERS AND GOVERNMENT EMPLOYEES WITH THOSE PAID UNIFORMED PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES AND THE INTEGRATED NATIONAL POLICE AND, FOR THIS PURPOSE, AMENDING SECTION 16 OF REPUBLIC ACT 4670 AND SECTION 13 (C) OF REPUBLIC ACT 6758, PROVIDING FUNDS THEREFOR

Introduced by Senator Magsaysay Jr.

**To the Committees on Civil Service and Government Reorganization; Education, Arts and Culture; and Finance**

Senate Bill No. 1966, entitled

AN ACT SEPARATING THE ILIGAN INSTITUTE OF TECHNOLOGY IN THE CITY OF ILIGAN FROM THE MINDANAO STATE UNIVERSITY

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- IN THE CITY OF MARAWI, PROVINCE OF LANA DEL SUR, CONVERTING IT INTO A STATE UNIVERSITY TO BE KNOWN AS THE SCIENCE AND TECHNOLOGY UNIVERSITY OF SOUTHERN PHILIPPINES (STUSP), THEREBY REPEALING REPUBLIC ACT NO. 5363 (AMENDED CHARTER OF THE NORTHERN MINDANAO INSTITUTE OF TECHNOLOGY) AND AMENDING REPUBLIC ACT NO. 1387 (CHARTER OF THE MINDANAO STATE UNIVERSITY), AS AMENDED AND FOR OTHER PURPOSES

Introduced by Senator Pimentel Jr.

**To the Committee on Rules**

**RESOLUTION**

Proposed Senate Resolution No. 218, entitled

RESOLUTION URGING THE SENATE COMMITTEE ON HEALTH AND DEMOGRAPHY TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE EXORBITANT PRICING OF ESSENTIAL DRUGS IN THE PHILIPPINES AND THE HIGH COST INCURRED BY PHARMACEUTICAL COMPANIES IN THE PROMOTION AND ADVERTISING OF BRANDED MEDICINES

Introduced by Senator Mar Roxas

**To the Committees on Health and Demography; and Trade and Commerce**

**COMMITTEE REPORT**

Committee Report No. 18, prepared and submitted by the Committee on National Defense and Security on Senate Bill No. 1967 with Senators Villar Jr. and Biazon as authors thereof, entitled

AN ACT DEFINING THE TERM "VETERAN" THEREBY AMENDING FURTHER REPUBLIC ACT NO. 6948 AS AMENDED,

recommending its approval in substitution of Senate Bill Nos. 648 and 1285

Sponsors: Senators Biazon and Villar Jr.

**To the Calendar for Ordinary Business**

**THIRD ADDITIONAL REFERENCE OF BUSINESS**

**MESSAGE FROM THE HOUSE OF REPRESENTATIVES**

Letters from the Secretary General of the House of Representatives, informing the Senate that on 17 March 2005, the House of Representatives concurred with the following Senate Concurrent Resolutions:

Senate Concurrent Resolution No. 7, entitled

CONCURRENT RESOLUTION INVITING HIS EXCELLENCY PERVEZ MUSHARRAF, PRESIDENT OF THE ISLAMIC REPUBLIC OF PAKISTAN TO ADDRESS THE CONGRESS OF THE REPUBLIC OF THE PHILIPPINES IN JOINT SESSION

and Senate Concurrent Resolution No. 8, entitled

CONCURRENT RESOLUTION INVITING HIS EXCELLENCY HU JINTAO, PRESIDENT OF THE PEOPLE'S REPUBLIC OF CHINA TO ADDRESS THE CONGRESS OF THE REPUBLIC OF THE PHILIPPINES IN JOINT SESSION

**To the Archives**

Letter from the Secretary General of the House of Representatives, informing the Senate that on 17 March 2005, the House of Representatives requested for a conference and designated Representatives Lopus, Suarez, Fuentebella, Singson, Cua (J.), Locsin Jr., Bateria, Lagman, Villafuerte, Teves, Gullas, Salceda, Nograles, Javier, Andaya Jr., Cua (G.), Defensor, Del Mar, Zamora, Suplico, Paras, Crisolago, Cayetano, Santiago and Malapitan as its conferees to the Bicameral Conference Committee on the disagreeing provisions of

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House Bill No. 3555, entitled

AN ACT RESTRUCTURING THE VALUE-ADDED TAX, AMENDING FOR THE PURPOSE TITLE IV OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES,

House Bill No. 3705, entitled

AN ACT AMENDING SECTIONS 106, 107, 108, 109, 110, AND 111 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES,

and its counterpart Senate bill.

To the Committee on Rules

#### BILL ON FIRST READING

Senate Bill No. 1968, entitled

AN ACT INSTILLING FISCAL DISCIPLINE IN THE PUBLIC SECTOR BY SPECIFYING PRINCIPLES OF RESPONSIBLE FINANCIAL MANAGEMENT AND PROMOTING FULL TRANSPARENCY AND ACCOUNTABILITY IN GOVERNMENT REVENUE, EXPENDITURE AND BORROWING PROGRAMS

Introduced by Senator Villar Jr.

To the Committees on Finance; Economic Affairs; and Ways and Means

#### SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

*It was 4:05 p.m.*

#### RESUMPTION OF SESSION

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

#### COMMITTEE REPORT NO. 16 ON SENATE BILL NO. 1950 (Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1950 (Committee Report No. 16), entitled

AN ACT AMENDING SECTIONS 27, 28, 34, 106, 108, 109, 110, 111, 112, 113, 116, 117, 118, 119, 125, 148, 236, 237, AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

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

Thereupon, the Chair recognized Senator Recto, Sponsor of the measure, and Senator Pimentel for his interpellation.

#### INTERPELLATION OF SENATOR PIMENTEL

Asked by Senator Pimentel whether VAT would be imposed on the production and sale of locally authored books, Senator Recto replied that their exemptions would not be lifted.

Asked about locally produced films, Senator Recto clarified that there is no plan to hike the VAT, as he explained that the amusement tax, a local government tax, is imposed only on movie houses.

Queried by the Chair as to whether a film producer is subject to the amusement tax, Senator Recto replied in the negative.

To the observation of Senator Pimentel that the film industry is subject to multiple taxes, Senator Recto pointed out that many types of transactions are subject to numerous taxes, for instance, sin products are subject to both an excise tax and a VAT. However, Senator Pimentel opined that instead of subjecting intellectual properties to multiple taxes, the government should encourage them to flourish.

Upon further query, Senator Recto clarified that VAT is not imposed on locally produced films that are shown overseas.

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To the suggestion that a local film, whether screened here or abroad, should be exempt from VAT, Senator Recto cautioned that such might conflict with World Trade Organization regulations as local products should not be treated differently from imports. Senator Pimentel suggested that the matter be studied further as he noted that cultural productions should enjoy some kind of exemption from the VAT.

Asked whether the current VAT on stage productions would be maintained, Senator Recto replied in the affirmative. Further, he believed that removing the 30% amusement tax imposed on local stage or film productions is the best way to encourage the growth of the industry. Additionally, he noted that since the amusement tax under the Local Government Code could range from 1% to 30%, Congress could either set a specific amusement tax or lobby with local government units against imposing the full 30% amusement tax.

Asked if he had any objection to inserting a "no pass-on" provision in the bill, Senator Recto asserted that the VAT is a pass-on tax as it is passed on to consumers and that the liability lies with the seller of the good or service. However, he opined that for a "no pass-on" provision to be realized, the tax on a particular industry should fall under a different classification, for instance, a tax on the power sector might be called "power generation tax." Further, he expressed concern over the onerous contracts between the IPPs and the National Power Corporation (Napocor) which, in effect, allow the IPPs to pass on all their tax obligations to the power firm. He said that he was leaving the matter of inserting a "no pass-on" provision to the lawyer-members since it is a difficult issue.

Senator Pimentel observed that the recent anti-VAT demonstrations were prompted by the belief that with the removal of tax exemptions, firms would make life more difficult for consumers. He said that his objective is to prevent such entities from passing on the VAT to the consumers. He suggested that Congress, in the exercise of the police power of the State, could pass legislation providing that the VAT shall not be passed on to consumers. He noted that since this had been done in the United States in several instances and they have not been invalidated by the U.S. Supreme Court, the Philippines could do the same. Moreover, he said that he favored Senator Recto's proposal not

to increase VAT by 2% but to remove exemptions of certain industries.

Senator Recto pointed out that the objective of the House version is also to reduce the burden on consumers. Further, he explained that in lieu of the VAT, the Senate bill also recommends the scrapping of excise taxes on socially sensitive products of the petroleum industry.

Senator Recto stated that he has not read the U.S. Supreme Court ruling but if the Committee decided to put a "no pass-on" provision in the proposed Act, it might give hope to the consumer that the tax would not be passed on to them when it is possible that the tax could still be passed on. He opined that the obligation to pay the VAT lies not with Napocor but with the power-generating companies and the power-distributing utilities.

Senator Pimentel stressed the need to ensure that the companies concerned would not adopt a cavalier attitude to the lifting of the exemptions. He expressed willingness to furnish the senators with copies of the decision of the U.S. Supreme Court in *Exxon vs. Eagerton*. He said that during the period of amendments, he would provide the Committee with the exact wording of the proposed provision.

Asked whether inventions by local scientists are subject to VAT, Senator Recto replied that it would depend on the income of a scientist, but at present, if he has gross sales of more than P550,000, he is supposed to pay VAT. However, he stated that existing laws provide certain incentives to inventors that the Senate would be discussing during the committee and floor deliberations on the fiscal incentives bill.

On whether he would be amenable to including a provision in Senate Bill No. 1950 that would give special concessions to local inventors, Senator Recto believed that there should be one tax for the country, like VAT, that has no exemptions. However, he recognized that there are indeed "hard-to-tax" sectors like the small retailers for which reason, the Committee contemplates a P750,000 threshold. He maintained that there are other taxes in the Code that make the system more progressive. Nevertheless, he gave assurance that the Committee would be willing to consider amendments.

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In closing, Senator Pimentel underscored that the legislators should do whatever they can in law to encourage Filipino scientists to do more.

#### REMARKS OF SENATOR PANGILINAN

Senator Pangilinan announced that other senators, including Senators Defensor Santiago, Osmeña and Madrigal, would interpellate on the bill at a later day.

At this point, the Chair announced that Energy Secretary Vince Perez was in the Office of the Senate President to give the senators a briefing, after the adjournment of the session, on the effect of the VAT bill on the power sector.

#### SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1950

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

#### APPROVAL OF THE JOURNAL OF SESSION NO. 67 AS CORRECTED

Upon motion of Senator Pangilinan, there being no objection, the Body approved the Journal of Session No. 67 subject to the correction made by Senator Osmeña on page 721, left column, to reword the third paragraph as follows: "On the other hand, Senator Osmeña disclosed that the Waterfront Hotel signed a 75-year lease contract WITH Pagcor properties in Mactan and Lahug. THE GOVERNMENT PROPERTY IN THE MACTAN INTERNATIONAL AIRPORT WAS LEASED OUT FOR A FIXED RATE OF P10 PER SQUARE METER MONTHLY OR P120 PER SQUARE METER YEARLY WHILE THE PROPERTY IN LAHUG, CEBU CITY WAS LEASED OUT FOR

A FIXED RATE OF P17 PER SQUARE METER MONTHLY OR P204 PER SQUARE METER YEARLY. IN 1995, THE MACTAN AND LAHUG PROPERTIES HAD MARKET VALUES OF P7,000 PER SQUARE METER AND P12,000 PER SQUARE METER, RESPECTIVELY. THE FIGURES WOULD TRANSLATE TO A RATE OF RETURN OF ONLY 1.7% TO THE GOVERNMENT FROM THE LEASE OF BOTH PROPERTIES. He underscored that the group cheated Pagcor and the Filipino people both ways. IN 75 YEARS, P10 MILLION WILL NOT BE ABLE TO BUY ONE CIGARETTE STICK!"

#### PARLIAMENTARY INQUIRY OF SENATOR OSMEÑA


Asked by Senator Osmeña whether there would be a special session, the Chair replied that the Office of the Senate President has not received any official communication from Malacañang calling for a special session; therefore, it assumed that there would be no special session the following week.

#### ADJOURNMENT OF SESSION

Upon motion of Senator Pangilinan, there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of Monday, April 11, 2005.

*It was 4:31 p.m.*

I hereby certify to the correctness of the foregoing.

  
OSCAR G. YABES  
Secretary of the Senate  
*Ms* *Alr* *Hca*

Approved on April 11, 2005.