

REPUBLIC OF THE PHILIPPINES

S e n a t e

Pasay City

Journal

SESSION NO. 60

Wednesday, February 16, 2005

**THIRTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 60
Wednesday, February 16, 2005

CALL TO ORDER

At 3:44 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Alfredo S. Lim led the prayer, to wit:

Lord, as we begin today's session and sessions to come, we humbly implore Your guidance and grace, so that we may be witnesses to Your love and peace.

Lord, we beseech You to endow us with the gift of understanding, so that in the face of diversity and divergence, we may remain steadfastly gentle and compassionate.

Lord, we meekly entreat You to bestow on us the gift of wisdom through the Holy Spirit, so that we may be able to craft and fashion wise, reasonable and humane laws imbued with devotion for the upliftment, of the common weal and common interest, addressed particularly to those who have "less in life."

Lastly, may we have firmer faith in unity among us so that we may successfully achieve our goals and objectives. In this regard, we would like to quote a poem, anonymously written, that through our Lord's intercession will always serve as our constant reminder and inspiration:

*One song can spark a moment,
One flower can wake the dream,
One tree can start a forest,
One bird can herald a spring.*

*One smile begins a friendship,
One handclasp lifts a soul,
One star can guide a ship at sea.*

*One vote can change a nation,
One sunbeam lights a room,
One candle wipes out darkness,
One laugh will conquer gloom.*

*One step must start each journey,
One word must start each prayer,
One hope will raise our spirit,
One touch can show You care.*

*One voice can speak with wisdom,
One heart can know what's true,
One life can make the difference,
You see, O, Lord, my God,
It's up to You.*

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.	Lapid, M. L. M.
Biazon, R. G.	Lim, A. S.
Defensor Santiago, M.	Madrigan, M. A.
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.	Revilla Jr., R. B.
Flavier, J. M.	Roxas, M.
Gordon, R. J.	

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

Senators Osmeña and Recto arrived after the roll call.

Senators Angara and Cayetano were on official mission abroad.

Senator Villar was also on official mission.

Senator Lacson was absent.

**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. 57.

APPROVAL OF THE JOURNAL OF SESSION NO. 59

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 59 and considered it approved.

INQUIRY OF SENATOR ROXAS

Senator Roxas asked if the Journal on the budget deliberations has already been approved. The Chair replied that the reading and approval of said Journal has been deferred.

Senator Roxas requested that he be furnished with the Journal as well as the transcript of the proceedings. The Chair explained that as a matter of procedure, a draft of the transcript is submitted to each senator who participated in a debate to allow him to correct errors in the transcript, if any.

Senator Roxas clarified that he was asking for the transcript of the entire budget deliberations so that he could study the interpellations, especially at those times when he was not present. The Chair directed the Secretariat to provide Senator Roxas with the requested transcript.

REFERENCE OF BUSINESS

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

RESOLUTIONS

Proposed Senate Resolution No. 185, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE THAT THE 14 FEBRUARY 2005 BOMBING IN MAKATI, DAVAO, AND GENERAL SANTOS SHOULD BE STRONGLY CONDEMNED

Introduced by Senator Defensor Santiago

To the Committee on Rules

Proposed Senate Resolution No. 186, entitled

RESOLUTION CONVERTING THE SENATE AS A COMMITTEE OF THE

WHOLE TO INQUIRE INTO THE POLICY DIRECTIONS, THE FUNCTIONS AND ACTIVITIES OF THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES, RELATIVE TO THE ALLEGED ILLEGAL LOGGING OPERATIONS IN AURORA, QUEZON AND OTHER PROVINCES OF THE COUNTRY, ILLEGAL MINING OPERATIONS, AND OTHER VIOLATIONS OF EXISTING ENVIRONMENTAL LAWS ELSEWHERE IN THE COUNTRY

Introduced by Senator Pimentel Jr.

To the Committee on Rules

ADDITIONAL REFERENCE OF BUSINESS

RESOLUTION

Proposed Senate Resolution No. 187, entitled

RESOLUSYONG NAGTATADHANANG GAMITIN BILANG PATNUBAY SA MGA OPISYAL NA TALAKAYAN NG SENADO ANG SALIN SA FILIPINO NG RULES OF THE SENATE

Intorduced by Senator Manuel "Lito" Lapid

To the Committee on Rules

PRIVILEGE SPEECH OF SENATOR PIMENTEL

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

This will be a brief statement on the need to uphold the Constitution in light of the announcement that Mr. Ebdane has begun to discharge his duties as the new Secretary of the Department of Public Works and Highways.

I wish to thank the Chair for allowing me to state this matter that really is not only a concern but should be shared by all the members of this Chamber considering that

the President apparently has no concern, has no commitment at all to the so-called niceties of the Constitution. This is borne out by the fact that aside from issues that had already been raised relative to this point earlier by this Representation in a speech before the Philconsa that I delivered on February 8, 2005.

The incident this morning was publicized in the newspapers saying that Mr. Ebdane, the former police general, has now taken over the position of Secretary Soriquez of the Department of Public Works and Highways.

Mr. Ebdane is a better choice than Mr. Soriquez, there is no question about that in my mind. Nonetheless, I think it is important for the President to understand that there are constitutional inhibitions against placing Mr. Ebdane in that position with full powers to discharge his duties. Our Constitution provides that no member of the Cabinet can be appointed to take over a department to which he has been appointed without being confirmed by the Commission on Appointments while Congress is in session. We are in session, and yet the President blindly ignores that constitutional prohibition against making appointments to the Cabinet while Congress is in session without the appointee passing through the Commission on Appointments.

The net effect of the presidential act is really to say to Congress that "you do not mean anything to me." That is what it amounts to and therefore, it is incumbent upon us, as members of Congress, to stand up and say, "We do mind, Mrs. President, that you do not seem to observe the provisions of the Constitution—even on this matter of appointing Cabinet members—which very clearly require the prior consent of the Commission on Appointments before your appointee can take office while Congress is in session."

Now, I am sorry that I am beginning to sound like a broken record on these activities or acts of the President that would, in effect, violate the Constitution. But like

the dogs of Pavlov, I think we have to keep on insisting, "What you are doing, Mrs. President, is wrong." Once we keep our eyes shut and we, as members of Congress, do not mind anymore these small incursions of the President in violation of the Constitution, I am afraid that one day we will all wake up and — as Claro M. Recto warned more than 50 years ago — find ourselves "happy slaves under a so-called democratic dictatorship." This is the burden of my message.

I also wish to state that we should just ignore the so-called 2% downgrade by Moody's. These credit rating agencies are actually overrated in their capacity to dictate to the way developing countries go about progressing towards development in their quest for a better life for their people. It has been shown that in many countries, credit raters like Moody's, Standard and Poor's, and even Fitch, have all been repudiated in Europe, in Japan, in India, as well as in Malaysia. These countries have shown that they can do without Moody's interference in the way they are promoting their own economic development.

I want to tell our economic managers to please do not tremble before these credit raters. What the President should do is to set the economic fundamentals of this country right, basically cut away corruption, and go about the matter of developing this country as best we can without resorting to what these credit raters want us to do which is to borrow more from foreign sources so that they can continue subordinating our economic life to the interest of foreign lenders.

So, that is the burden of my short statement. I would like to ask this Chamber to kindly consider standing up to the President, that she cannot just ignore what is clearly stated in the Constitution. The Chamber and I know this very well that while Congress is in session, no Cabinet member is appointed or nominated and be allowed to take office.

Let me repeat before I am misunderstood. I have nothing against Mr. Ebdane. *A*

He is better than Mr. Soriquez. But being better than Mr. Soriquez does not authorize the President to just ignore and, in effect, violate the provisions of the Constitution and without us, members of Congress, standing up and saying "Mrs. President, this is not the way to go. We are all governed by the Constitution and nobody is above the Constitution."

INTERPELLATION OF SENATOR DEFENSOR SANTIAGO.

Initially, Senator Defensor Santiago asked to be clarified if the thrust of the speech is that the President can announce a new appointee but not to induct him into office until he shall have been confirmed by the Commission on Appointments. Senator Pimentel replied in the affirmative.

With regard to the pending litigation in the Supreme Court on the same issue, Senator Defensor Santiago asked on the status of the case. Senator Pimentel replied that the High Court's decision is being awaited.

Asked who would run the agency if the new appointees shall not officially take over, Senator Pimentel stated that this is where the undersecretary comes in as he fills the gap in case there are problems with the nominee. He said that a department should not be without a head while the nominee passes through the confirmation process.

Senator Pimentel stated that Hermogenes Ebdane Jr.'s appointment as Secretary of the Department of Public Works and Highways is a glaring violation of the constitutional prohibition on nominees to Cabinet positions assuming office without the conformity of the Commission on Appointment.

Asked what specific constitutional provision contains said prohibition, Senator Pimentel adverted to Section 16, Article VII, the dispositive portion of which reads:

The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive departments...whose appointments are vested in him in this Constitution. He shall also appoint all other officers of the

government whose appointments are not otherwise provided for by law...

He asserted that said provision clearly states that the President shall nominate the heads of the executive departments with the consent of the Commission on Appointments. The second paragraph, he noted, speaks of the President's "power to make appointments during the recess of Congress, whether voluntary or compulsory, but such appointment shall be effective only until disapproval by the Commission on Appointments or under the next adjournment of Congress." He pointed out that the first paragraph applies to Mr. Ebdane's case, meaning, the President can nominate him but the nomination cannot have an effect until he shall have passed the Commission on Appointments. He said that this presupposes that the nomination is done while Congress is in session because that is the time when the Commission on Appointments holds its hearings.

Senator Defensor Santiago said that the basis of Senator Pimentel's argument was drawn as a necessary implication from a constitutional provision since there is no specific provision that prohibits a nominee from assuming office, pending confirmation by the Commission on Appointments. She stressed that the key word in Section 16 is "appoint."

Asked what "appoint" means in the legal sense such that it can be used as an argument against the nominee's assumption of office before confirmation, Senator Pimentel responded that the appointment must be with the consent of the Commission on Appointments, without which there can be no appointment as it entails the assumption of powers of the office by the appointee.

Assuming that this is the correct interpretation, Senator Defensor Santiago asked whether the Commission on Appointments is ready to act within 30 days on every nomination submitted to it since that is an obligation imposed on the CA. Senator Pimentel stated that from experience, the 30-day period has not been complied with for so many reasons, one of which is the failure of the appointee to submit the necessary papers required by the CA to enable it to start the confirmation hearings. He believed that the 30-day requirement is only directory, adding that if the urgency of the nomination is impressed upon the CA, it would act with dispatch.

Noting that such position is more in consonance with the Constitution, Senator Defensor Santiago, nonetheless, expressed apprehension that Congress might not act within 30 session days from the submission of the appointment. She posited that there is a self-created conflict because the last sentence of Article VII, Section 18 provides, "The Commission shall act on all appointments submitted to it," implying that once the President nominates a person, she has already appointed him. Therefore, she reasoned, even before submission of the nomination to the CA, in constitutional contemplation, the appointment has already been concluded which is directly in conflict with Article VII, Section 16 which states, "The President shall nominate and, with the consent of the Commission on Appointments, appoint x x x." She believed that this self-produced conflict within the Constitution must be resolved by the next constitutional assembly. She stated that there is no use pressing the President not to induct into office her nominee on the ground that the vacancy might last for several months and thus prejudice national interest; Congress can only press the President on the point that she should not allow the nominee to assume office if Congress is ready to do its part within 30 days as mandated by the Constitution.

Senator Pimentel opined that whether or not the CA would do its obligation would depend on the actual circumstance of the case.

Senator Defensor Santiago noted that under the Rules of Procedures of the CA, any member of the Commission can invoke Section 20 such that without debate and without voting, immediately, the nominee shall be bypassed.

Asked whether Section 20 violates the last sentence of Article VI, Section 18 which states, "The Commission shall rule by a majority vote of all the Members," Senator Pimentel answered that the assumption is that the vote of a single member who invokes Section 20 carries with it the conformity of the body, otherwise, he would be overruled.

In case a member invoked Section 20 and another member questioned it and demanded for a division of the House, Senator Defensor Santiago wondered what the ruling would be in light of the constitutional provision. She pointed out that the Senate President, in his capacity as *ex officio* chair of the CA, must resolve this issue. She agreed with

Senator Pimentel that as a general rule, the President should not allow the assumption into office of her nominee until after the CA shall have acted on the appointment, otherwise, the appointee for an extended period of time, could govern in complete defiance of the constitutional powers of Congress and it behooves the members of Congress to be vigilant in guarding the powers granted to it by the Constitution, lest the very finely tuned system of checks and balance in a tripartite form of government might be thrown out of kilter.

Senator Pimentel cited the case of DBM Secretary Boncodin whose papers were never submitted to the CA for three years, as well as DOH Secretary Dayrit whose papers have not been submitted to the Commission to date. He said that these acts can be hurled back at the President as an attempt to circumvent the confirmation process of the CA.

REMARKS OF SENATOR BIAZON

Adverting to Senator Enrile's privilege speech on the actuation of the Standard Chartered Bank, Senator Biazon noted that the said bank issued a statement the following day that Moody's is not going to downgrade the credit rating of the Philippines but apparently, the country's rating would be downgraded by two notches. Thereafter, he yielded the floor to Senator Roxas.

INTERPELLATION OF SENATOR ROXAS

At the outset, Senator Roxas shared the frustration of Senator Pimentel concerning the downgrading of the Philippines' credit rating at a time when the country is exerting every effort to improve its financial condition.

In the light of Senator Pimentel's suggestion to ignore the actions of the credit rating agencies, Senator Roxas asked how the Philippines can access the international markets considering that banks and financial institutions worldwide partially use the findings of these credit rating agencies in their lending decisions. Senator Pimentel answered that the government should learn from Prime Minister Mahathir of Malaysia who ignored the downgrading by the credit rating agencies and proceeded to develop Malaysia in a better-than-expected way. He stressed that the country should not bow to these credit rating agencies but find other ways of developing the country just like

Malaysia which did it by controlling the flow of currency into its own country and India which, according to the recent World Bank report, is doing better economically than ever before after it was downgraded.

Senator Roxas shared the hope that the Philippines, like Malaysia and India, would also be able to build the country to that level where it can withstand the entire international financial community. He noted that Malaysia did not suffer a downgrade; what it did was to defy the IMF prescription at the time when the financial crisis hit the ASEAN. In comparison, he stated that the Philippine's present rating is the same as that of Vietnam which is below the ratings of Indonesia and Thailand. He said that Malaysia is the only country in the world that enjoys an "A" credit rating.

In relation to the 2005 budget, Senator Roxas cited the P250 billion consolidated public sector deficit that needs to be financed either by raising taxes or borrowing from international or domestic sources. However, he clarified that if the country ignored the credit rating agencies and the IMF, it would have to borrow domestically which might crowd out domestic business and result in higher borrowing cost. Senator Pimentel stated that international borrowing is not an option at all because the country has already over-borrowed and obviously, it does not make good business sense if it keeps borrowing just to pay its debts. As regards alternative sources of revenues, he said that he was opposed to the modified VAT bill that increases the present 10% by 2%; however, he was in favor of removing the exemptions of big businesses from the coverage of VAT which, he believed, would, more or less, achieve the 2% target increase in VAT. If that is still inadequate, he asserted there are still other ways to make up for the loss but definitely not to beg for mercy from the credit rating agencies and borrow from foreign banks. He noted that the country's economic development is hampered by too much reliance on foreign borrowings.

Senator Roxas shared the same view, pointing out that foreign borrowing is not a long-term sustainable undertaking. He looked forward to discussing the VAT issue, believing that it would put the country's financial condition in order.

Senator Pimentel acknowledged that the issue now is how to prevent a situation where the

exempted corporations that would be covered by VAT would not pass on to the consumers the costs of VAT. He stated that there are U.S. laws that would prevent that practice of big businesses of passing on added costs.

At this juncture, Senator Roxas said that he also has reservations on the VAT bill; however, he opined that the matter needs to be discussed so that the government does not have to borrow abroad once the financial house is in order.

INTERPELLATION OF SENATOR ARROYO

Senator Arroyo recalled that when he was asked by media several weeks ago on the possible downgrade by credit rating agencies, he said then that he does not understand why government trembles with fear every time there is a threat of downgrade by such agencies. He said that it was a way of telling the government that it should think of internal ways of solving its economic problems rather than reacting to what foreigners say.

Citing the speech of Senator Pimentel on credit rating agencies, Senator Arroyo pointed out that said agencies were not given much attention in Europe, India, Malaysia and other Asian countries. He wondered why credit rating agencies rate the Philippines' economy when the country does not owe them a single cent. Bringing to mind the time when the government feared the IMF, World Bank and ADB, he said that it was because the country owed them money, and it was natural for a debtor to listen to its creditor when it says "you are not running your affairs well." Likewise, he was also reminded of the time when a credit rating agency gave ENRON AA rating days before it collapsed.

Senator Pimentel confirmed that Moody's rated ENRON as an AAA investment and four days later it collapsed. He said that it was enough proof how unreliable credit raters are. He added that when World Com was given the same rating, it suffered the same fate.

Senator Arroyo stated that nationalism has nothing to do with the economy; economic managers should think and not rely on credit rating agencies with a history of unreliability.

Senator Pimentel stated that it was ironic that credit raters are being paid \$300,000 for every sovereign borrower.

Asked if the government paid the credit raters so that it could downgrade the country's economy, Senator Pimentel replied that apparently it did.

On the observation that the borrowing rate increases whenever the government gets scared of the credit rating agencies, Senator Pimentel stated that it is also assumed that government would borrow more from abroad.

At this juncture, Senator Arroyo asked Senator Roxas to enlighten him on the thesis that the government should borrow more whenever the credit rating is downgraded.

Senator Roxas explained that although the country does not owe credit rating agencies a single centavo, foreign credit investors with whom the country owes nearly \$100 billion listen to them. He said that it was not a question of being scared of the credit raters but the government must take them seriously.

Senator Arroyo observed that the Arroyo administration, through Secretary Camacho, borrowed more than the combined borrowings of Presidents Aquino, Ramos and Estrada. He said that during budget deliberations, the question as to why the country needs to borrow from abroad arises and yet Congress never found the answer.

Senator Roxas explained that the Philippines borrows abroad for two reasons: First, the government does not want to crowd out domestic borrowings within the country because if government borrows domestically, interest rates would rise due to the limited supply of money; second, borrowing abroad would actually cost cheaper than borrowing domestically assuming that the exchange rates do not move against the local currency.

Expounding further, Senator Roxas said that if the country borrows at 5% from international lenders, it would be cheaper than the T-bill rates of 8% here at home. He pointed out that it becomes more expensive when government repays the debt since the dollar-peso exchange rate is against the local currency.

Senator Pimentel argued that the policies that local economists put forward on the matter of economic development have become fallacies. He posited that if the statement of Senator Roxas

were true, then the Philippines would have surpassed Malaysia and the country's ranking would be second only to Japan.

Senator Pimentel stated that the government should think of innovative ways of developing the country without relying on foreign borrowings. He said that credit raters want to make sure that the government borrows from abroad so that they can keep on with their business.

Senator Pimentel pointed out that the premise of Senator Roxas would not work in the Philippines.

Senator Roxas stated that the rationale for borrowing abroad has nothing to do with the financial condition of the country at present. He contended that from 2002 to 2004, the government had spent P200 billion a year on an average. He said that while nobody wants to borrow, when expenses exceed the income, government is forced to look for other sources.

Moreover, Senator Roxas said that Congress can either cut the P250 billion deficit and, at the same time, raise money through taxes, or government can print money which would be a cause for inflation. He opined that raising taxes should be done responsibly at a socially conscious level while bridging the revenue gap – the deficit of what the government should spend for social programs in exchange of the taxes that it wants to make.

Senator Arroyo pointed out that every time 30% of the budget goes to debt servicing, the issue on foreign debt arises. He said that economic planners have always favored foreign debts which are subject to the dollar-peso parity. He added that borrowing in pesos would mean paying in pesos.

Citing newspaper reports, he stated that banks have been awash with money because there are very few borrowers. He believed that the interest rates are being dictated by the government and not the market.

In response to Senator Roxas, Senator Pimentel maintained that the actuations of the government have contributed to the country's economic difficulties today. He said that the P250 billion deficit can be addressed by domestic solutions without the need to borrow from abroad. He added that

printing money would not have an inflationary effect if money would be put to finance specific projects.

Senator Pimentel said that there is no question about the need to cut the deficit, and one way of doing it is to remove intelligence funds of the Office of the President and to slash other budget items. He said that it was rather unsettling to hear Senator Roxas say that foreign borrowings have nothing to do with the country's economic situation.

Clarifying his statement, Senator Roxas said that a distinction should be made between the financing problem and the spending problem. He said that government borrows abroad to finance the excess of what it has decided to spend, and this norm of spending more than what is earned has resulted in a debt stock that is now 130% of the country's GDP. He reiterated that borrowing abroad or domestically is simply a financing activity to find the money to fund the expenditures of government which, for years, have exceeded the income it gets. He stressed that the root cause of the problem is the expenditures.

Senator Pimentel remarked that the distinction made by Senator Roxas might be good in economic schools but not in policymaking because they do not have an impact on government. He said that if borrowings are continued, there would still be no guarantees that the country would not end up where it started.

Considering the historical penchant of government leaders to spend borrowings on matters that do not promote the country's economic development, Senator Pimentel reiterated that the rating agencies who are feared by the technocrats have no business terrorizing and playing god with the lives of the people. Senator Roxas believed that one could only be terrorized if he chooses to be terrorized. Personally, he said, he would not chose to be terrorized, rather he would try to find the solution to the problem. He argued that even if the government only resorted to domestic borrowings, it would end up having the same debt problem.

Senator Pimentel believed that the level of foreign indebtedness would stop if the country ceases to borrow abroad. He said that what he was raging against is the whole philosophy of borrowing, especially when the technocrats succumb to the

pressure of foreign banks, its agents or even rating agencies that keep on telling the government to put its economic house in order so that it could borrow more, otherwise, it would be downgraded.

Agreeing thereto, Senator Roxas hoped that the government would be able to manage its finances properly so that it could build a sound financial foundation for the benefit of the people.

Resuming his interpellation, Senator Arroyo recalled that when the Paris-based FATF was not satisfied with the Anti-Money Laundering Law that Congress passed three years ago, the government's fiscal and monetary authorities asked Congress again to tighten the law; however, both Houses resisted. He said that it took a meeting with U.S. Treasury officials for FATF to be convinced that the AMLA could not be tightened further. He pointed out that despite FATF's threats, the Philippines was removed from the blacklist which goes to show that government should not give in to every requirement imposed on it. He further recalled that when he was the Philippine director of ADB for five years, he was told that the country should borrow more. He said that he declined, knowing that the dollars that would be coming in would only be used to pay the country's debts. He said that he found it very unusual that creditors would urge the country to borrow more.

Asked by Senator Arroyo if he was suggesting that the government ignore the credit downgrade, Senator Pimentel replied in the affirmative. He pointed out that the Philippines did not economically collapse in spite of being placed on the watch list and the FATF's warning that transactions would be difficult. He expressed confidence that the Philippines would survive being downgraded and so it need not kowtow to rating agencies and ask that its credit standing be restored.

Senator Pimentel recalled that because of the FATF warning, funds deposited in Philippine banks were transferred to foreign banks. Senator Arroyo noted that the deposit base in two big foreign banks, whose capitalization is very small, is a lot bigger than those of BPI and other big Philippine banks. Noting that technocrats in the private sector consider the reaction of their stockholders, he lamented that when they joined the government, they forgot to consider the reaction of the public who are now their stockholders.

As regards appointment, Senator Arroyo agreed with the thesis of Senator Pimentel that there is something wrong with the President's appointment of a person to a cabinet position when Congress is in session. However, he posited that Congress and the Commission on Appointments should have a deadline for confirmation like in the U.S. Senate where confirmation does not take very long.

Asked what solutions he would propose other than appointing an undersecretary as OIC who the President might feel is not up to par, Senator Pimentel pointed out that the Constitution very clearly provides the solution. He said that while the ideal thing to do is to confirm the nominee as soon as possible, there are certain requirements that are demanded from the nominee which are in his complete control, thus, the CA is frustrated and this situation gives the Executive a way to avoid getting the nominee confirmed by the CA. Senator Arroyo agreed that some nominees delay the submission of their papers so that their confirmation could not be acted upon by the CA. Thus, he said, it is entirely up to the CA to tighten the rules and to put a deadline for submission of requirements.

Senator Arroyo said that the practice of confirmation was borrowed from the U.S. Senate which is the confirmatory body. He added that in the U.S., there is seldom a secretary that is reappointed after Congress adjourns; he is either confirmed or rejected. He said that the President could also demand that Congress either reject or confirm her appointments because there is a timetable.

Senator Pimentel stated that even if Secretary Ebdane is qualified to replace Secretary Soriquez, his qualification has to be passed over by the CA. He said that if Congress keeps on standing mute in the light of such Executive provocation, he could not resist echoing the plaint of the downtrodden—"Since we cannot do anything about this, we might as well pack up our bags and get out."

Senator Arroyo noted that the problem is two-pronged in the sense that the President and the Congress are not doing their part – the President must not do what is prohibited under the Constitution and the Congress must act promptly on any nomination. However, he pointed out that if the nominee fails to submit his papers to the CA, the President should not appoint him.

REMARKS OF SENATOR MADRIGAL

Senator Madrigal noted that if the country chose not to borrow, it would not have money to pay its debts; however, if it continues to borrow, as it has been doing in the past years, it shall fall further into debt. She agreed, however, that the government should not be scared when the country's credit standing is downgraded.

Senator Madrigal said she was shocked at the way the tax bills were railroaded without the benefit of economic models to show the impact of these measures on the economy.

Senator Madrigal related that in a meeting with some economists, some were in favor and some were against the 2% VAT increase, but they opined that the monies collected from VAT should be used on debt payment and not on another supplemental budget. Otherwise, she said, the government shall be forced into the spiral of borrowing.

Senator Madrigal underscored the need to heed such advice because the government cannot continue to raise taxes to finance other government projects that do not reduce the deficit. She believed that the country can bargain from a position of strength, as she noted some countries that did not jump at every downgrade or heeded the advice of the credit rating agencies.

Saying that the country is caught in a dilemma because there is no choice at the moment, Senator Madrigal advised the leadership to listen more closely to the economists than to the financial managers, moneymen and technocrats who paint a different view of the economy. She stated that although economics is not an exact science, it provides certain models within which to work and plan for the long term.

INTERPELLATION OF SENATOR GORDON

As regards the two topics in Senator Pimentel's speech – the *ad interim* appointments and the credit rating agencies – Senator Gordon stated that he shares Senator Pimentel's sentiments as regards the credit rating issue. He, however, said that he was not sure if there is a firm legal stand on the matter of *ad interim* appointments. ✓

On the role of good governance in credit standard ratings, Senator Gordon remarked that credit raters look at the capability of a country to improve its fiscal standing. He noted that governance and issues like minimizing corruption are part of the questions asked by the credit raters.

Saying that good governance is the overriding philosophy behind the credit-worthiness of a government, Senator Pimentel added that political risks are included as a factor in judging if a country is to be downgraded. Senator Gordon said that rating agencies provide clients that could be governments or corporate entities investment, information as regards the situation of a country not just from the numbers point of view but also from the qualitative point of view.

Senator Gordon remarked that part of the credit assessment beyond numbers is the quality aspect as to whether the government is serious in reducing deficits, collecting revenues, making sure that everyone pays taxes and catching smugglers.

Senator Pimentel agreed, adding that everything that has to do with violating the laws that affect the overall economic performance is also part of the assessment.

Senator Gordon stated that he has to take stock of the downgrading because it has a pervasive effect on the international community in the sense that it creates a perception that the country is not credit-worthy. He added there is no proper governance when appointees, who are removed from their posts due to corruption, are only demoted.

On the issue of appointing former military officers to government posts, Senator Gordon noted that it apparently sends a message that the country is unstable so the President tends to rely on military men for support to put some stability in her presidency. Senator Pimentel agreed, saying that such equation has come into the minds of many people. He pointed out that although General Ebdane is better qualified for the post, the President is reaching out to the big names in the military to ensure that she could rely on a definite sector in society in case massive strikes or demonstrators are staged against her administration.

Although the Commission on Appointments can act with dispatch on the confirmation of the DPWH

secretary, Senator Gordon noted the importance of ensuring that the person for the post is very effective in exercising good governance and in implementing programs. Senator Pimentel replied that the competence of the official is something that will have to be proven as days go by, adding that only the CA can determine the qualification of an appointee.

On the matter of foreign borrowings, Senator Gordon said that the country tends to spend much more than it borrows, and this, he noted, happened in practically all administrations. The debts have piled up and now the country is in the rot, he added.

Senator Gordon commented that bad credit ratings, like travel advisories, happen throughout the world and the country is part of a global community. He asserted that as the quality of public servants deteriorates and public officials remain unaccountable, and corruption becomes widespread, the country would continue losing revenues. He pointed out that there is no need for credit rating agencies to rate the country because it is a fact that the Filipinos are not thoroughly focused on the things they needed to be improve themselves. Everyone, he said, is practically saying that there is no hope in the Philippines, that is why there is a need to go out to other countries to make both ends meet. He related that the Foreign Affairs Secretary has to beg the Japanese government to relax its policy on Filipino entertainers. Senator Pimentel stated that these rating agencies acquire their relevance if the country continues with the economic strategy of borrowing to pay debts. He underscored the need to cut off this economic policy and start anew by getting out of the system prescribed by the World Bank and IMF, and think along the same lines as Mahathir Mohammed of Malaysia. He noted that something wrong has been going on for a long time but, better late than never, something has to be done about it.

Senator Gordon recalled that when he was SBMA chair, he was able to borrow from the World Bank and that, to him, was a seal of good housekeeping for investors to come to Subic. When properly utilized, he averred, it is a good sales pitch to make to foreign investors. He remarked that the country need not be credit-rated although it is caught in a situation where it is forced to accept a credit rating. Its low rating, he said, is self-inflicted

because there is poor governance, corruption, irresponsible fiscal policy, inability to stop smuggling and collect proper taxes.

**COMMITTEE REPORT NO. 7
ON SENATE BILL NO. 1862**

(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1862 (Committee Report No. 7), entitled

AN ACT PRESCRIBING A FIXED TERM OF OFFICE FOR THE CHIEF OF STAFF AND THE MAJOR SERVICE COMMANDERS OF THE ARMED FORCES OF THE PHILIPPINES (AFP) AND FOR OTHER PURPOSES.

Senator Pangilinan stated that the parliamentary status was the period of committee amendments.

Thereupon, the Chair recognized Senator Biazon, Sponsor of the measure.

COMMITTEE AMENDMENTS

As proposed by Senator Biazon, there being no objection, the Body approved the following Committee amendments:

1. On page 1, line 7, replace the word "fixed" with MINIMUM,
2. On the same page, line 8, after the word "as," insert the words VICE CHIEF OF STAFF OR, and
3. On the same page, line 17, replace the word "cause" with LOSS OF CONFIDENCE.

TERMINATION OF THE PERIOD OF COMMITTEE AMENDMENTS

There being no other committee amendment, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of committee amendments.

MANIFESTATION OF SENATOR PANGILINAN

Senator Pangilinan manifested that Senator Defensor Santiago would introduce her amendments on Monday.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1862

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

PROPOSED SENATE RESOLUTION NO. 186

Upon motion of Senator Pangilinan, there being no objection, the Body considered Senate Resolution No. 186, entitled

RESOLUTION CONVERTING THE SENATE AS A COMMITTEE OF THE WHOLE TO INQUIRE INTO THE POLICY DIRECTIONS, THE FUNCTIONS AND ACTIVITIES OF THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES, RELATIVE TO THE ALLEGED ILLEGAL LOGGING OPERATIONS IN AURORA, QUEZON AND OTHER PROVINCES OF THE COUNTRY, ILLEGAL MINING OPERATIONS, AND OTHER VIOLATIONS OF EXISTING ENVIRONMENTAL LAWS ELSEWHERE IN THE COUNTRY.

The Chair recognized Senator Pimentel for the sponsorship.

SPONSORSHIP REMARKS OF SENATOR PIMENTEL

Senator Pimentel stated that the resolution seeks to convert the Senate into a Committee of the Whole on February 23, 2005, at three o'clock in the afternoon to enable the DENR Secretary to answer questions from senators relative to the alleged illegal logging operations in Aurora, Quezon and other provinces, as well as illegal mining operations and other violations of environmental laws elsewhere in

the country, particularly those matters raised by Senator Madrigal.

Senator Pimentel said that the resolution came about because of an agreement between Senate President Drilon and the Opposition to cut short the interpellation of Senator Madrigal on the DENR budget during the budget deliberations. The main outline of the questions to be addressed to the Secretary, he stated, is enumerated in the resolution in compliance with Section 125, Rule XLVI of the Rules of the Senate.

**MANIFESTATION
OF SENATOR PANGILINAN**

Senator Pangilinan manifested that Senator Defensor Santiago would interpellate on the resolution on Monday.

**SUSPENSION OF CONSIDERATION
OF PROPOSED SENATE
RESOLUTION NO. 186**

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

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:35 p.m.

RESUMPTION OF SESSION


At 5:35 p.m., the session was resumed.

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, February 21, 2005.

It was 5:35 p.m.

I hereby certify to the correctness of the foregoing.


OSCAR G. YABES
Secretary of the Senate
16/2/05

Approved on February 21, 2005