



REPUBLIC OF THE PHILIPPINES

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Pasay City

Journal

SESSION NO. 61

Monday, February 21, 2005

**THIRTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 61
Monday, February 21, 2005

CALL TO ORDER

At 3:37 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Ma. Ana Consuelo "Jamby" Madrigal read the prayer by Sir Francis Drake, to wit:

Disturb Us O Lord

Disturb us, O Lord, when
We are too pleased with ourselves
When our dreams have come true
Because we dreamed too little.
We have arrived safely,
Because we sailed too close to shore.

Disturb us, O Lord, when
With the abundance of things we possess,
We have lost our thirst
For the waters of life.

Having fallen in love with life,
We have ceased to dream of eternity.
And in our efforts to build a new earth,
We have allowed our vision
Of a new Heaven to dim.

Disturb us, O Lord, to dare more boldly,
To venture on wilder seas
Where storms will show Your mastery;
Where losing sight of land,
We shall find the stars.
We ask You to push back
The horizons of our hopes;
And to push us into the future
In strength, courage, hope, and love,
We ask in the name of our Captain,
Who is Jesus.

Amen.

NATIONAL ANTHEM

The Regent Square Chorale of the Adventist University of the Philippines led the singing of the national anthem and thereafter rendered the song entitled *Ako ay Pilipino*.

ROLL CALL

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

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|----------------------------|----------------------|
| Angara, E. J. | Lapid, M. L. M. |
| Arroyo, J. P. | Lim, A. S. |
| Biazon, R. G. | Madrigal, M. A. |
| Defensor Santiago, M. | Magsaysay Jr., R. B. |
| Drilon, F. M. | Osmeña III, S. R. |
| Ejercito Estrada, J. | Pangilinan, F. N. |
| Ejercito Estrada, L. L. P. | Revilla Jr., R. B. |
| Enrile, J. P. | Roxas, M. |
| Flavier, J. M. | Villar Jr., M. B. |
| Lacson, P. M. | |

With 19 senators present, the Chair declared the presence of a quorum.

Senators Gordon and Recto arrived after the roll call.

Senators Cayetano and Pimentel were on official mission abroad.

APPROVAL OF THE JOURNAL

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 60 and considered it approved.

DEFERMENT OF THE APPROVAL OF THE JOURNAL OF SESSION NO. 57

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the consideration and approval of the Journal of Session No. 57.

QUESTION OF PRIVILEGE OF SENATOR LIM

On a matter of personal and collective privilege, Senator Lim brought to the attention of the Senate the sad plight of several retired officers and men of

the PC/INP. In this regard, he read the petition of the Manila's Finest Retirees Association, Inc. dated February 7, 2005, to wit:

**MANILA'S FINEST RETIREES
ASSOCIATION, INC.**

*United Nations Avenue, Ermita
Manila*

PETITION

February 7, 2005

TO: Hon. Senator Manuel Villar
Chairman, Committee on Finance
Committee on Accounts & Committee
on Public Order & Illegal Drugs

THRU: Hon. Senator ALFREDO S. LIM

Sirs:

It is a valued privilege that I am at the helm of the MANILA'S FINEST RETIREES ASSOCIATION, INC., where we, its components, are only a handful of the surviving REMNANTS of the INP REGIME, who were replaced by energetic and robust men and officers of the now named Philippine National Police (PNP). Admittedly, we lost the luster of youth, strength, and stamina, for decades of selfless dedication to the identically sworn police job, without the least fear that our retirement years will be doomed and dismal, just because we belonged to the then INTEGRATED NATIONAL POLICE, the INP, the ironically deleted faction from the nation-wide police force nowadays...but we are still obsessed to covet justice and equity for our losing cause.

Indeed WE are rare mortals in the MFRAI, who yield to the inevitable certainty that many of us will soon, or very soon, meet our CREATOR, surrendering to HIM nothing but our burden-filled life, as the devastated INP-Retirees who are denied of equal rights, equal benefits, equal privileges and equal remuneration in our retirement-era. Sadly, the implied oppression comes from the same police force who forgot, missed and overlooked, deliberately or otherwise, that just like their present day heroes in the PNP, we have been part and parcel of its prestigious past, with the SAME BREATH as capital for every risky police task.

When we joined together, we are ALL old PNP retirees mostly sick, weak and hopeless of about 1,000-lowly cops and officials, ranging

from 70 & 90 years of age, ALL recipients of meager pensions, compared to the enormous benefits accorded to PNP retirees. We were bound by the same disgust, heralding the same PROTEST against the unconscionable disparity in our retirement dues and benefits. Our lives flickered with abject poverty and the most of the desolate retirees succumbed to the deathly summons in vain, despite the promising endeavor of no less than former Senator ROBERT Z. BARBERS, the then CHAIRMAN of the Committee on Public Order and Illegal Drugs, who sponsored PSR No. 237, "to look into our appeal for us to enjoy SIMILAR RETIREMENT BENEFITS as that of the PNP Retirees," copy is marked as ANNEX "A." Verily, even the Speaker of the House, Hon. JOSE DE VENECIA, JR., filed his RESOLUTION NO. 150, dated July 23, 2001, copy is attached as ANNEX "B." to the House of Representatives, "to adopt remedial legislation to increase our pensions and retirement benefits."

These two (2) legislators were, obviously, NOT ALONE in sympathizing with our ordeal with the akin sentiments of the Board of Officers of the NAPOLCOM, the PNP Retirees Association, Inc., (PRAI) and former Justice Secretary ARTEMIO TUQUERO, who where in unison in assenting to the said RESOLUTIONS.

Unfortunately, like most of our poverty-stricken and ill members who failed to fight for survival, the said RESOLUTIONS met its natural death, reportedly for LACK of FUNDS. But we refused to be daunted by such defeat. Fighting for our cause, we petitioned for DECLARATORY RELIEF before Branch 3 of the Regional Trial Court of Manila, whose presiding Judge, Hon. JUAN C. NABONG, Jr., in his March 21, 2003-DECISION emphatically RULED that the INP was NEVER LEGISLATED OUT OF EXISTENCE in the PNP LAW or Republic Act No. 6975, as amended by RA 8551, a copy of his DECISION is herewith marked as ANNEX "C," for ready reference.

In the said court-verdict, said magistrate cited several provisions in the said RA 6975 which sanction his finding that "THE INP WAS NEVER BOOTED OUT OF EXISTENCE or ABOLISHED BY RA 6975." He even added: "Otherwise the words MERGE or TRANSFER or ABSORPTION would not have been used in Section 85 Phase III and 88." He likewise concurred with our asseveration that our appeal is in consonance with ARTICLE XVI, Section 8 of the CONSTITUTION, as well as with the

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provision on Retirement Benefits under Section 6 of REPUBLIC ACT 7432 or the SENIOR CITIZENS LAW, and conceded that we "the INP Retirees equally served the populace with the same selfless dedication at the risk of our lives."

We are undoubtedly at the ending tenure of our lives, yet we COWER of that probability that our triumph in the judiciary will be an exercise in futility, until our dim hope is rekindled with the awareness that Honorable Senator ALFREDO S. LIM had PROPOSED for the appropriation of THREE HUNDRED FIFTY MILLION PESOS (P350,000,000.00) for us...the INP Retirees. Such gesture is endearing to us who are indeed praying that the bequeathed illusion for equity of many departed colleagues will not perish in vain, especially for the barely surviving 500-ailing, emasculated and forlorn INP retirees, who are now under compulsion to beseech for your kind indulgence, to approve the said funding and inclusion in the budget of the proposed P350,000,000.00-appropriation for INP Retirees, to alleviate our sufferings. Then we can humbly submit that indeed, this government does not restrict its graces and benefits to the PNP retirees alone. On such occasion, We, the INP retirees, will no longer be strangers to its bestowed equity and justice, even for our expectedly short-lived existence.

For and in their behalf, I remain, as always.

Very truly yours,

P/Col. FELICISIMO L. LAZARO (Ret.)

Thereafter, Senator Lim handed the petition to Senator Villar, Chairman of the Committee on Finance.

REMARKS OF SENATOR VILLAR

Senator Villar stated that the amendment had been included in the approved Senate version of the budget. He explained that in the Bicameral Conference Committee, the members of the Senate panel would meet and discuss with their House counterparts and would do their best to defend the Senate's position on the budget.

PRIVILEGE SPEECH OF SENATOR MAGSAYSAY

Availing himself of the privilege hour, Senator Magsaysay informed the Body that Victor Agustin, in his column "Cocktales" in

The Philippine Daily Inquirer, wrote a commentary entitled "Bell-bottom blues" about a resolution of the National Transmission Commission to acquire a P336 million brand-new, twin-engine helicopter.

Senator Magsaysay verified that the acquisition of a US\$6 million multi-engine helicopter was contained in Resolution No. TC 2005-003 dated January 25, 2005, of the National Transmission Corporation.

Senator Magsaysay informed the Body that he already filed a resolution urging the Committee on Energy and other appropriate committees to conduct an inquiry into the transaction. He said that for a company being privatized by the government, the acquisition of a helicopter for US\$6 million is unconscionable. He expressed hope that the committee headed by Senator Defensor Santiago would look into the morality of the transaction given the current situation of the country. He pointed out that a company that is in dire need of cash is out to purchase an expensive helicopter when it can lease from chartering companies which is less expensive than buying a new one.

Finally, Senator Magsaysay remarked that GOCCs should be cautious as the credibility of the government is at stake.

INTERPELLATION OF SENATOR ARROYO

At the outset, Senator Arroyo commended Senator Magsaysay for raising the subject, saying that he read the same article earlier and immediately looked for the advertisement of the acquisition of the helicopter. He said that it was published in the February 4 issue of *The Philippine Daily Inquirer* and he would furnish the Body with the copy of the notice. He read portions of the ad, to wit;

"Supply and Delivery of One (1) Unit of Brand New Multi-Role Twin Engine Helicopter for Transco maintenance of power transmission lines;

The contract to be performed by the successful bidder shall consist of supplying and delivering a helicopter to Transco Hangar, General Aviation Area, Domestic Airport, Pasay City, Metro Manila, Philippines;

The approved budget for the contract to be bid from the Internal Cash Generation is P336 million."

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Senator Arroyo pointed out that while the rest of the country is faced with issues like the national budget and additional taxes, a company like Transco is willing to shell out P336 million for a helicopter which is about to be phased out. He remarked that Transco can just lease the helicopter whenever it needs one. Senator Magsaysay agreed.

Asked if leasing is a better option than investing P336 million, Senator Magsaysay replied in the affirmative.

Senator Arroyo revealed that National Power Corporation has several airplanes as well as helicopters to its name, and so, it is lack of prudence on their part to buy another helicopter worth P336 million. Senator Magsaysay confirmed that Transco has several aircraft and two helicopters. Senator Arroyo expressed support for Senator Magsaysay's call to investigate the matter.

INTERPELLATION OF SENATOR ENRILE

Asked by Senator Enrile on the type of helicopter proposed to be acquired, Senator Magsaysay said that the resolution did not identify the type but specified it as a twin-engine helicopter with a budget of US\$ 6 million.

Asked if the specified type is for an American, Canadian or French helicopter, Senator Magsaysay replied that it is probably an American helicopter, a Bell jet-plane or its equivalent.

Senator Enrile informed the Body that a twin-engine helicopter is expensive to maintain as they are considered the "Cadillac" of helicopters.

Asked why a government corporation needed a helicopter and who would use it, Senator Magsaysay replied that it would probably be used by the management of Transco. Senator Enrile remarked that a helicopter of that kind is fit for the use of a President of a country. He asked if the aircraft, in any way, would be used by Malacañang. Senator Magsaysay replied that it was not specified.

Senator Enrile underscored that being in charge of the nation's money, Congress should prohibit the GOCCs from acquiring any such types of equipment without its permission. Senator Magsaysay stated that given the current financial situation, those who initiated the proposal are morally deficient.

Senator Enrile maintained that based on principle, government agencies or GOCCs should not be allowed to have the luxury of having this kind of transportation when domestic airlines or chartered flights are available and more economical. The maintenance and upkeep of the helicopter is very expensive and would make a difference to the finances of Transco, he added. He asserted that it is about time that these GOCC officials be disciplined and required to resign if needed. He observed that these officials seem to be unsatisfied in their propensity to spend people's money, enjoying the luxury of power and position that come with their office while the others are reeling under the heavy load of poverty.

Senator Magsaysay agreed to Senator Enrile's observation that it is only right to fire officials of GOCCs who cannot endure the difficulties of managing public assets without the perks like riding in a helicopter. Additionally, he pointed out that these officials are not setting a good example for others.

Asked why Transco needed additional helicopters, Senator Magsaysay surmised that it might be used to inspect transmission lines. However, Senator Enrile pointed out that inspections are not done daily as he suggested that Transco rent helicopters from chartering companies instead of using luxury-type helicopters equipped with amenities such as televisions or global positioning systems. He reiterated his suggestion to warn the Transco directors that they would be removed from office if they do not make reforms.

INTERPELLATION OF SENATOR OSMEÑA

At the outset, Senator Osmeña said that Transco president and CEO Allan Ortiz had informed him that the company currently has two BK 117 helicopters made in Germany. He stated that the model is a twin-engine workhorse with a configuration that is popular for air ambulance and medical assistance operations. Moreover, he said that Mr. Ortiz promised to send the Senate a copy of the eligibility and bid documents.

Noting that the issue about Transco's need for new helicopters arose because of a Cocktales column in *The Philippine Daily Inquirer*, Senator Osmeña said he had learned that Mr. Peter Rodriguez, an aircraft supplier of Asian Air Space whom he had repeatedly criticized in the past, became an agent

for Bell Helicopters during the term of then President Ramos but had been removed from the company owing to certain shenanigans. Additionally, he said that Mr. Rodriguez also offered to sell the Philippine Air Force four secondhand C-130 planes for US\$41 million or over US\$10 million each, even though there was no guarantee that these aircraft would fly. Further, he opined that these aircraft can be bought in the secondhand market for about US\$2 million or US\$3 million each; in fact, the country has a dozen C-130s that were restored for about US\$3 million or US\$4 million each. He said that it was fortunate that the proposed transaction which was being negotiated during the term of then AFP chief Angelo Reyes did not push through.

However, Senator Osmeña urged the Body to look at both sides of the issue as he observed that a transmission company needs one or maybe two full-time helicopters since these are used in the construction, alignment or even expansion of transmission lines. Moreover, he said that he had been informed by Mr. Ortiz that Transco's second BK-117 had flamed out twice during the rescue/relief operations in Quezon and Aurora and as such, there is a need to replace them.

Stating that he has always criticized the non-transparency of GOCCs when they buy and sell luxurious pieces of equipment without congressional oversight, Senator Osmeña cautioned the Body to avoid jumping to conclusions about Transco especially after he heard that Peter Rodriguez promised to deliver two old Bell Hueys worth no less than US\$20 million. He noted that the Bell Hueys that have been used by the government were surpluses from the Vietnam War that the U.S. donated to the Philippines; these are old-model single engine aircraft which are not recommended for heavy usage

In closing, Senator Osmeña reiterated his support for any effort to investigate huge purchases made by GOCCs including but not limited to Transco, PNOC, Napocor, GSIS and SSS, in order to safeguard and protect the interest of the Filipino people.

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Pangilinan, there being no objection, the Chair referred the privilege speech of Senator Magsaysay and the interpellations thereon to the Committee on Energy.

POINT OF INFORMATION OF SENATOR DEFENSOR SANTIAGO

Senator Defensor Santiago informed the Body that the Joint Congressional Power Commission is scheduled to meet at three o'clock in the afternoon at the Club Filipino on Thursday, February 24, 2005, during which she intended to bring up the proposed purchase of Transco of new helicopters.

PROPOSED SENATE RESOLUTION NO. 186 (Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration of 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 THE
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 EXIST-
ING ENVIRONMENTAL LAWS
ELSEWHERE IN THE COUNTRY.**

MANIFESTATION OF SENATOR PANGILINAN

Senator Pangilinan informed the Body that Senator Pimentel, Sponsor of the measure, is on official leave but Senator Enrile would answer any question about the resolution.

REMARKS OF SENATOR DEFENSOR SANTIAGO

Senator Defensor Santiago informed the Body that she would waive her reservation to interpellate on the following grounds:

- ♦ The Constitution, as reflected in the Rules of the Senate, has abolished the practice of calling for Committee of the Whole and has instead replaced them with the Question Hour;

Handwritten signature/initials

Since there is no specific provision in the Rules of the Senate on the practice of calling for a Committee of the Whole, the Senate refers to precedents or past practices or certain classic books on the Rules of Order, like the *Jefferson's Manual* and *Hind's Precedents* which note that calling for a Committee of the Whole is an obsolescent if not an obsolete practice. Moreover, in the 18th century, the practice of calling for Committee of the Whole was to, in effect, suspend the rules of the Chamber, so that matters could be discussed informally. Therefore, the difference between the Question Hour and the Privilege Hour is that the former is meant to be an informally structured procedure while the latter is a formal one.

Additionally, Senator Defensor Santiago noted that in the past few centuries, the U.S. Senate adopted the practice of convening a Committee of the Whole to avoid exacerbating a situation and lessen the possibility of having members come to blows than if they were operating under the Rules of the Senate.

Finally, Senator Defensor Santiago said she was withdrawing her reservation to interpellate and objection to the resolution in keeping with a commitment made by Majority to the Minority that the interpellation of a Cabinet member on a department budget would be postponed to another time so as not to unnecessarily delay the budget deliberations.

REMARKS OF SENATOR ARROYO

Senator Arroyo recalled that in an effort to expedite the budget deliberations, an agreement was reached for the Senate as a Body to tackle the inquiries of Senator Madrigal separately from the budget hearings and as such, a resolution was filed by Senator Pimentel. However, he stated that he had reservations thereon because convening a Committee of the Whole might violate the Rules of the Senate. Moreover, he noted that inviting Cabinet members to the Senate committees is a fairly routine practice. However, that is not in accordance with Section 125 of the Rules and Article VI, Section 22 of the Constitution which provide for the procedure known as Question Hour in situations when the performance of the Cabinet member in question is the issue.*

Furthermore, he affirmed the observation of Senator Defensor Santiago that the Rules of the Senate has no provision on the Committee of the Whole although the convening of such a committee has been done in practice. However, since the performance of a Cabinet member is involved and it is covered by Article VI, Section 22 of the Constitution, he suggested that proposed Senate Resolution No. 186 might be blended in such a way that the rules of the Senate are not violated.

PROPOSAL OF SENATOR ARROYO

Senator Arroyo proposed that the resolutory portion be amended in such a way that the convening of a Committee of the Whole shall be by the unanimous consent of the Chamber, provided it does not constitute a precedent.

In such a case, he said, the Senate would meet as a Committee of the Whole but governed by Section 125 of the Rules. This way, he said, the commitment made by the Majority to the Minority would be honored.

REMARKS OF SENATOR DEFENSOR SANTIAGO

Senator Defensor Santiago expressed support to the amendment. She stated that the Supreme Court has held many times that a Chamber of Congress can amend its own Rules at any time such that a unanimous vote at the very least could mean that the Body is suspending its own Rules.

Moreover, she agreed that the proviso against precedents would avoid legalities and technicalities in the future.

PARLIAMENTARY INQUIRY OF SENATOR ENRILE

Senator Enrile adverted to the privilege speech he delivered last week relative to the loan agreement entered into between the People's Republic of China and the Republic of the Philippines concerning the proposed rehabilitation of the North Luzon Railway System from Tutuban to Malolos, Bulacan. He recalled that during the speech, he made a motion to convene the Senate into a Committee of the Whole as the issues he had raised such as on international relations, the country's surrender of sovereignty, and the financial repercussions of the loan being held in the hands of the lender-country,

* As corrected by Senator Arroyo on February 22, 2005

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and the misfeasance or malfeasance of public officers cannot be handled by just any committee.

He noted that his motion was referred to the Committee on Rules. In view of the discussion on the problem of the DENR Secretary, he asked what would happen to his motion.

REMARKS OF SENATOR ROXAS

Senator Roxas expressed the view that a unanimous vote is not necessary to convene the Committee, citing Rule LI, *Amendments to or Revision of the Rules* and Rule XLIII, *Suspension of the Rules* which only require majority of the senators present; and Section 14 of Rule X, on the creation of the committees, which states that "Whenever necessary, special committees shall be organized, the membership and jurisdiction of which shall be determined by the Senate President."

In this regard, Senator Roxas believed that the Body can convene as a committee to address the issues raised with respect to the DENR Secretary and/or the matters raised by Senator Enrile without the hurdle of a unanimous vote. He cautioned that by having a unanimous vote, the Body might be placing a threshold that is not contemplated at present.

MANIFESTATION OF SENATOR ENRILE

Senator Enrile stated that the members of the Minority are supporting the position of Senator Defensor Santiago that any suspension of the Rules or the creation of a Committee of the Whole in the Senate must be by unanimous consent.

CLARIFICATION OF SENATOR DEFENSOR SANTIAGO

Senator Defensor Santiago clarified that the Committee of the Whole is not a select committee; it is a completely different entity which originated from the U.S. Congress at a time when it did not want to direct a particular committee, standing or select, to deal with a certain problem, hence, it decided to deal with it as a whole.

REPLY OF SENATOR PANGILINAN

Senator Pangilinan stated that the practice of providing unanimous consent may not be in the Rules per se but by tradition, the Senate has acted

on measures using unanimous consent as a basis of the Chamber's action.

In reply to Senator Enrile's parliamentary inquiry, Senator Pangilinan informed the Body that the Committee on Rules will convene on Wednesday at nine-thirty in the morning to discuss the matter. He said that pertinent notices had been issued to the committee members.

SUSPENSION OF SESSION

With the permission of the Body, the Chair suspended the session.

It was 4:44 p.m.

RESUMPTION OF SESSION

At 4:52 p.m., the session was resumed.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

Upon motion of Senator Pangilinan, there being no objection, the Body closed the period of interpellations.

PANGILINAN AMENDMENT

Senator Pangilinan proposed that the dispositive portion No. 2 which reads "To summon the Secretary of the Department of Environment and Natural Resources to appear personally on Wednesday, February 23, 2005," be amended to read as follows:

TO SUMMON THE SECRETARY
OF THE DEPARTMENT OF ENVIRON-
MENT AND NATURAL RESOURCES
TO APPEAR PERSONALLY AT THE
TIME AND DATE TO BE DETER-
MINED BY THE SENATE PRESIDENT
IN CONSULTATION WITH THE
MAJORITY AND THE MINORITY
BEFORE THE SENATE, AS A
COMMITTEE OF THE WHOLE....

Senator Enrile expressed the hope that the date would be determined soon enough.

Accepted by the Sponsor, there being no objection, the proposed amendment of Senator Pangilinan was approved by the Body.

Senator Pangilinan stated that as manifested by Senators Arroyo and Defensor Santiago, the resolution would not constitute as a precedent.

ADOPTION OF PROPOSED SENATE RESOLUTION NO. 186

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 186 was unanimously adopted by the Body

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:56 p.m.

RESUMPTION OF SESSION

At 4:56 p.m., the session was resumed.

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 that the period of interpellations was terminated without prejudice to Senator Angara's earlier reservation to interpellate.

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

INTERPELLATION OF SENATOR ANGARA

At the onset, Senator Angara commended Senator Biazon for proposing a bill based on one of the recommendations of the Davide and Feliciano Commissions, which have lain dormant for so many

years. He stated that the brief tenure of chiefs of staff prevented a long range and stable planning for the military and contributed to the uncertainty and instability in the Armed Forces.

Senator Biazon agreed that such is the result of the revolving door policy adopted by Philippine presidents since 1987, so much so that the average tenure of each Chief of Staff is between three months and six months. He affirmed that the short tenure is a major factor preventing the military from pursuing the five-year strategic military plan.

As to why the day of reckoning for the start of the term is the date of appointment by the President instead of the completion of the appointment with the confirmation by the Commission on Appointments, Senator Biazon explained that the appointee performs his functions upon assumption of office which is on the date of his appointment.

Senator Angara said that he agrees with Senator Pimentel that unless a person is confirmed, he should not perform his duties.

Senator Biazon expressed the view that unless the Commission on Appointments clarifies that an appointee even on an *ad interim* capacity cannot function, then the reckoning date of an appointment should be redefined. He stressed that present practice is that an appointee's term of office must be reckoned with the first day he begins to function.

Asked how many occupy the ranks of major general, rear admiral, lieutenant general and vice admiral from which candidates for Chief of Staff would be drawn, Senator Biazon replied that there are a total of 51 positions at present.

On the other hand, he said, service commanders would be selected on the basis of existing procedures established by the Board of Generals. He explained that the major factors in the selection would be seniority, performance in duty, positions occupied in the past, educational attainment and evaluation of their superiors. But the final appointment would come from the President, he said.

On the observation that if lineal seniority is a major consideration, a brigadier general would have no opportunity to be appointed as service commander, Senator Biazon said that there have been instances when the factor of seniority is overcome by other

factors. Under the bill, he explained, a brigadier general may be chosen as service commander but not as Chief of Staff.

Senator Angara noted that extended terms and a seeming cartel of PMA graduates from which Chiefs of Staff or service commanders are chosen have been the biggest demoralizer of AFP. In this regard, he believed that the Body should take into account that 80% of the officer corps come from the reserve officers' pool.

Senator Biazon stated that there have been Chiefs of Staff in the past who were not graduates of the PMA.

Senator Angara pointed out that it had been a policy to put a non-PMA graduate as Chief of Staff precisely to serve as check and balance within the military organization and to reflect the composition of the officers corps.

Senator Biazon explained that because of the operations of law, a reserve officer has no chance of being appointed to higher positions because he is demobilized after two years of active service, unless he is an integree like Generals Ver and Espino. Under the bill, he said, it is not impossible for an integree to be appointed as Chief of Staff but since even the Constitution provides that a citizens' army should have a small corps of regulars both in the enlisted rank and in the officer rank, an integree has a remote chance of being appointed Chief of Staff because of the structure.

Asked if the structure could be changed in order to allow integrees to be appointed as Chief of Staff to maintain balance between the integrees and the PMA graduates, Senator Biazon stated that even in the past, there was fast turnout of reserve officers from active service to inactive service but the law allowed reserve officers who have gone through unbroken service of 10 years to be regular officers in order to compete within the structure. However, he conceded that it would be difficult for reserved officers to be included in the pool of appointees for higher positions. However, he assured Senator Angara that the integrees are not being precluded from being appointed Chief of Staff under the bill since it is still the prerogative of the President to appoint the Chief of Staff.

Asked if the Board of Generals is required to recommend only three names, Senator Biazon

replied in the negative. He recalled that before his retirement from service, President Aquino asked him to submit four names. At present, he added, the Board of Generals normally submits a long list of recommendees to the Secretary of Defense who may shorten the list when it is submitted to the President.

Asked how many of the current general and admiral ranks are non-PMA graduates, Senator Biazon replied that the Chief of Staff, Vice Chief of Staff and the three service commanders are graduates of the PMA.

Senator Angara underscored that the non-PMA graduates should be eligible to be appointed Chief of Staff to maintain balance within the military organization because the integrees and reserve officers form a large segment of the military. Senator Biazon affirmed that the law does not exclude a non-PMA graduate from being appointed to the highest position as the only qualification under the bill would be for the recommendee to hold the rank of major general/vice admiral.

As regards tenure, Senator Angara observed that the provision that the Chief of Staff would "hold office unless removed for cause" was a tricky one as he noted that the Chief of Staff is more than the alter ego of the Commander-in-Chief who should have almost absolute discretion to change his Chief of Staff if there is any doubt at all about his capacity, capability, loyalty or integrity. He feared that if the Chief of Staff could not be removed except for cause, this situation would bring in a host of precedents and jurisprudence as to what constitutes a "cause." He believed that the Chief of Staff should serve a fixed term at the pleasure of the President, noting that "lack of confidence" should have a definite meaning based on reasonable, not whimsical causes.

Senator Biazon explained that the copy of the bill dated February 16, 2005, reflected the committee amendment replacing the word "cause" with the phrase "loss of confidence."

To Senator Angara's proposal that all the four positions – Chief of Staff and the three major service commanders – serve a fixed term at the pleasure of the President to capture the essence of their positions of being very close military advisers to the President, Senator Biazon expressed

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willingness to accept the amendment at the proper time.

Asked why the bill authorized the extension of retirement of top officers who are retirable at the time of appointment, Senator Biazon expressed hope that the most senior in experience and qualification would be appointed Chief of Staff, on condition that no one with less than one year in service would be appointed to the position.

Senator Angara, however, pointed out that if seniority were the primordial consideration, then the candidate who is about to retire might not get the appointment. Senator Biazon believed that the "one-year before retirement" clause is reasonable. He conceded that the extension of terms of top retirable officers causes demoralization among the ranks but if a younger general who is due to retire in three years would be appointed chief of staff, he would be jumping over a large field of senior officers. He stressed that the possible extension of the term of a retirable officer is more acceptable to the officers and men of the military than for a large group of senior officers serving under their former juniors.

Senator Angara proposed that a transition period of five to seven years be provided to correct the set-up. He believed that the officers would accept the rule of promotion if provided in the law in advance.

He pointed out that there has been great grumbling and unrest even among police officers because of the continuous extension of terms of their leaders. He said that while seniority and experience must be honored, the law should provide for contingency that in case of grave emergency or war, the Commander-in-Chief could deep-select a brilliant, young general to be Chief of Staff. Senator Biazon believed that the pool of 51 generals would be wide enough from which to select the Chief of Staff.

To Senator Angara's calculation that one gets to be a major general when he is between 54 and 55 years old, Senator Biazon replied that today, there are major generals who are still between 50 and 51 years of age. Senator Angara requested the age brackets of the pool of generals at present.

Asked whether the United States has a different rule in selecting the Chief of Staff, Senator Biazon

said that when the Goldwater Law was enacted in 1986, the pool for selection of Chief of Staff and the Chairman of the Joint Chiefs of Staff was reduced to nine consisting of the service commanders and the area commanders.

Asked on the reason for the large pool of generals in the country, Senator Biazon said that the number of generals was raised to 1.125% of the number of the officers' corps, precisely to widen the pool of selection.

Asked whether he would agree to an amendment that the President can resort to a deep selection in case of grave emergency or war, Senator Biazon replied that it might be too drastic as he emphasized that the selection must be limited to the pool of nominees.

Senator Angara recalled that General Eisenhower, who was not the most senior officer, was selected by President Roosevelt over 50 generals to head the European command during WWII. He pointed out that in case of war, the President should be able to resort to a deep selection in choosing the chief of the air force and the chief of the army. Senator Biazon stated that with respect to the choice of service commander, this can be done at present, and so there is no reason to provide for it in the law. However, he cautioned that if this is provided for in the proposed Act, the only high-ranking officer the President can select from the pool would be the Chief of Staff.

On whether a full colonel or a brigadier general in times of war or similar conditions can be picked as head of a branch of service, Senator Biazon said replied that it can be done even without the proposed Act.

At this juncture, the Chair clarified that the President is not prohibited by law to pick any officer to be service commander. It added that it is only in selecting the Chief of Staff that the President is compelled to look at the pool of nominees.

Senator Biazon cautioned that the President would have to consider certain factors because picking a colonel to be the Air Force Chief would create a lot of problems. Senator Angara opined that in extraordinary times, the colonel might be the best of the lot who can provide the most brilliant leadership.

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TERMINATION OF THE PERIOD OF INTERPELLATIONS

There being no other interpellation, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of interpellations.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1862

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

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:39 p.m.

RESUMPTION OF SESSION

At 5:40 p.m., the session was resumed.

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, informing the Senate that on 14 February 2005, the House of Representatives agreed to a conference on the disagreeing votes on House Bill No. 3154, entitled

**AN ACT APPROPRIATING FUNDS
FOR THE OPERATION OF THE
GOVERNMENT OF THE REPUBLIC
OF THE PHILIPPINES FROM
JANUARY ONE TO DECEMBER
THIRTY-ONE, TWO THOUSAND
FIVE, AND FOR OTHER PURPOSES,**

and accordingly designated Representatives Andaya Jr., Salceda, Sandoval II, Cua, Singson, Mitra, Duavit, Gullas, Barbers, Ablan Jr., Lagman, Mikey Macapagal Arroyo, Macarambon Jr., Golez, Miranda, Dimaporo,

Baterina, Sy-Alvarado, Abayon and Cuenco on the part of the Majority and Representatives Cayetano, Zamora, Paras, Marcos, Antonino-Custodio, Crisologo, Malapitan, Angara, Chipeco (alternate) and Asistio (alternate) on the part of the Minority, as its conferees.

To the Committee on Rules

BILLS ON FIRST READING

Senate Bill No. 1918, entitled

**AN ACT AMENDING SECTION 290 OF
REPUBLIC ACT NO. 7160,
OTHERWISE KNOWN AS THE
LOCAL GOVERNMENT CODE OF
1991**

Introduced by Senators Flavier and Lim

**To the Committees on Local Government;
and Ways and Means**

Senate Bill No. 1919, entitled

**AN ACT AMENDING SECTION 186 OF
BATAS PAMBANSA BLG. 881,
OTHERWISE KNOWN AS THE
OMNIBUS ELECTION CODE OF
THE PHILIPPINES, AS AMENDED,
AND FOR OTHER PURPOSES**

Introduced by Senator Jinggoy Ejercito Estrada

**To the Committee on Constitutional Amend-
ments, Revision of Codes and Laws**

Senate Bill No. 1920, entitled

**AN ACT AMENDING SECTION 10 OF
BATAS PAMBANSA BLG. 881,
OTHERWISE KNOWN AS THE
OMNIBUS ELECTION CODE OF
THE PHILIPPINES, AS AMENDED,
AND FOR OTHER PURPOSES**

Introduced by Senator Jinggoy Ejercito Estrada

**To the Committee on Constitutional Amend-
ments, Revision of Codes and Laws**

ADDITIONAL REFERENCE OF BUSINESS**BILL ON FIRST READING**

Senate Bill No. 1921, entitled

AN ACT PROVIDING FOR THE EXPEDIENCY AND EFFICIENCY IN DEALING WITH GOVERNMENT, CREATING FOR THE PURPOSE A HARMONIZED DATABASE SYSTEM AND FOR OTHER PURPOSES

Introduced by Senator Mar Roxas

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

RESOLUTION

Proposed Senate Resolution No. 188, entitled

RESOLUTION DIRECTING THE COMMITTEE ON PUBLIC SERVICES TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, ON THE PER MINUTE CHARGE BY MOBILE PHONE SERVICE PROVIDERS

Introduced by Senator Mar Roxas

To the Committees on Public Services; and Trade and Commerce

SECOND ADDITIONAL REFERENCE OF BUSINESS**RESOLUTION**

Proposed Senate Resolution No. 189, entitled

RESOLUTION URGING THE SENATE COMMITTEE ON ENERGY AND OTHER APPROPRIATE COMMITTEE/S TO CONDUCT AN IMMEDIATE INQUIRY, IN AID OF LEGISLATION, ANENT THE PLANNED ACQUISITION BY THE NATIONAL TRANSMISSION CORPORATION OF HELICOPTER/ AIR EQUIPMENT AMIDST RECOMMENDATIONS THAT THE SAME

IS MANIFESTLY INEQUITABLE, PATIENTLY UNCONSCIONABLE AND GROSSLY DISADVANTAGEOUS TO THE FILIPINO PEOPLE AND VIOLATIVE OF THE GOVERNMENT'S AUSTERITY PROGRAM

Introduced by Senator Magsaysay Jr.

To the Committee on Energy

COMMITTEE REPORT NO. 8 ON SENATE BILL NO. 1286 (Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1286 (Committee Report No. 8), entitled

AN ACT CREATING THE RANK OF FIRST CHIEF MASTER SERGEANT/ FIRST MASTER CHIEF PETTY OFFICER IN THE ENLISTED RANKS OF THE ARMED FORCES OF THE PHILIPPINES (AFP), APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

TERMINATION OF THE PERIOD OF AMENDMENTS

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

APPROVAL OF SENATE BILL NO. 1286 ON SECOND READING

Submitted to a vote, there being no objection, Senate Bill No. 1286 was approved on Second Reading.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1286

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

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SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:43 p.m.

RESUMPTION OF SESSION

At 5:44 p.m., the session was resumed.

COMMITTEE MEMBERSHIP

Upon nomination of Senator Pangilinan, there being no objection, Senator Defensor Santiago was elected as member of the Committee on Public Works in lieu of Senator Cayetano who had resigned from the committee.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:45 p.m.

RESUMPTION OF SESSION

At 5:45 p.m., the session was resumed.

**• MANIFESTATION
OF SENATOR PANGILINAN**

Senator Pangilinan manifested that he has withdrawn as member of the Senate panel to the Bicameral Conference Committee on the General Appropriations Bill.


In view thereof, the Chair designated Senator Recto as member of the Senate panel.

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 Tuesday, February 22, 2005.

It was 5:46 p.m.

I hereby certify to the correctness of the foregoing.


OSCAR G. YABES
Secretary of the Senate
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Approved on February 22, 2005