



**REPUBLIC OF THE PHILIPPINES**

**S e n a t e**

**Pasay City**

# **Journal**

**SESSION NO. 76**

Monday, April 18, 2005

**THIRTEENTH CONGRESS  
FIRST REGULAR SESSION**

**SESSION NO. 76**  
Monday, April 18, 2005

**CALL TO ORDER**

At 3:51 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

**PRAYER**

Sen. Jinggoy Ejercito Estrada led the prayer, to wit:

*ISANG PANALANGIN PANG-  
KALAHATAN SA PAGBUBUKAS NG  
SESYON NG MATAAS NA KAPU-  
LUNGAN NG KONGRESO NG  
REPUBLIKA NG PILIPINAS*

Makapangyarihan at makatarungang Diyos, muli kaming dumudulog sa Iyong makapangyarihang katauhan upang humingi ng Iyong biyaya, pang-unawa at kapatawaran sa aming mga kasalanan.

Na sa Iyong pamamatnubay, nawa'y malaman namin ang kahulugan ng pagkakaisa sa gitna ng pagkakawalay-walay. Ang aming bansa na sa kasalukuyan ay nahahati sa maruming pulitika at sobrang pagkakahati, nawa'y matutunan naming magkaisa at pagtulongang lutasin ang mga suliranin na aming hinaharap.

Na sa diwa ng pagpapatawad, nawa'y masimulan namin ang pagbibigayan at pagkakabuklod-buklod, hindi lamang ang aming mga diwa kundi ang aming pagiging mga tunay na anak ng Panginoong Diyos.

Kami, bilang mga halal na kinatawan ng ating mga mamamayan, ay taus-pusong naninikluhod sa Inyong harapan upang ang Inyong mabuting kalooban ay mapasaamin.

Panalangin namin na sa Inyong mapagpalang kandili ay masaklawan kami ng Inyong kapangyarihan upang ang Inyong pag-ibig ay maisama namin sa lahat ng aming gawain sa

pagtupad ng aming mga tungkulin, una sa Inyo, makapangyarihang Panginoon, pangalawa, sa aming minamahal na bansang Pilipinas

Amen.

**NATIONAL ANTHEM**

The Maria Immaculada Chorale led the singing of the national anthem and thereafter rendered the song entitled *Ti Ayat Pong Pong Ginapong*.

**ROLL CALL**

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

Cayetano, C. P. S	Magsaysay Jr., R. B
Defensor Santiago, M.	Pangilinan, F. N.
Drilon, F. M.	Pimentel Jr., A. Q.
Ejercito Estrada, J.	Revilla Jr., R. B.
Ejercito Estrada, L.L.P.	Roxas, M.
Lim, A. S.	

With 11 senators present, the Chair declared the presence of a quorum.

Senator Arroyo, on official mission as Senate conferee on the VAT bill, arrived after the roll call.

Senators Flavier, Lapid and Lacson were on official mission abroad.

Senators Angara, Biazon, Enrile, Gordon, Madrigal, Osmeña, Recto and Villar, the Senate conferees on the VAT bill, were also on official mission.

**APPROVAL OF THE JOURNAL  
OF SESSION NO. 74**

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 74 and considered it approved.

to

## REFERENCE OF BUSINESS

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

### MESSAGES FROM THE HOUSE OF REPRESENTATIVES

Letter from the Secretary General of the Houses of Representatives dated March 30, 2005, informing the Senate that even date, the House of Representatives adopted House Bill No. 47, entitled

RESOLUTION INFORMING THE SENATE THAT THE HOUSE OF REPRESENTATIVES HAS CONVENED AND HAS ENTERED UPON THE EXERCISE OF ITS FUNCTIONS

#### To the Archives

Letter from the Secretary General of the House of Representatives dated April 4, 2005, informing the Senate that on April 1, 2005, the House of Representatives passed the following House bills in which it requested the concurrence of the Senate:

House Bill No. 3740, entitled

AN ACT TO EXTEND THE UTILIZATION PERIOD OF THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND, AMENDING REPUBLIC ACT NO. 8178, ENTITLED "AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS ON AGRICULTURAL PRODUCTS, EXCEPT RICE WITH TARIFFS, CREATING THE AGRICULTURAL COMPETITIVENESS ENHANCEMENT FUND, AND FOR OTHER PURPOSES"

#### To the Committee on Agriculture and Food

and House Bill No. 3742, entitled

AN ACT RESETTING THE BARANGAY AND SANGGUNIANG KABATAAN

ELECTIONS, EXTENDING THE TERM OF OFFICE OF BARANGAY AND SANGGUNIANG KABATAAN OFFICIALS AND FOR OTHER PURPOSES

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

### RESOLUTION

Proposed Senate Resolution No. 233, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEES ON PUBLIC INFORMATION AND MASS MEDIA; AND PUBLIC ORDER AND ILLEGAL DRUGS TO INVESTIGATE, IN AID OF LEGISLATION, THE KILLING OF JOURNALIST MARLENE GARCIA-ESPERAT, AND TO INSTITUTE MEASURES TO PROTECT MEMBERS OF JOURNALISM PROFESSION WHO EXPOSE MISDEEDS IN THE GOVERNMENT

Introduced by Senator Pimentel Jr.

To the Committees on Public Order and Illegal Drugs; and Public Information and Mass Media

### QUESTION OF PRIVILEGE OF SENATOR PIMENTEL

On a question of personal and collective privilege, Senator Pimentel delivered the following speech:

#### WITH CIVILITY, WE WILLOVERCOME

I would like to start by saying that there is nothing surprising about the developments in the ranks of the Minority in this Chamber that merited some lines in the pages of the national dailies and over the air lanes of radio and television in the last few days.

The history of the world is replete with stories of competition between moderate voices and hard-liners even as they seemingly pursued the same goals.

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Qurei and Arafat on the Palestine issue; Gerry Adams and the Sinn Fein on the IRA in Northern Ireland; Nelson Mandela and Govan Mbeki and other leaders of the National Congress on apartheid in South Africa; Mahatma Gandhi and Subhas Chandra Bose on non-violence in India – all these gentlemen argued for one side against the other in the espousal of what was best for their nations.

In the end, it was moderation that won the day. The *Satyagraha* philosophy of Mahatma Gandhi that called for opposing injustice by acts based on love, not hatred, I think, has provided an unerring road map in the search for the genuine development of nations through democratic debate.

I cited these historical examples, among other reasons, in an attempt to show that the problems facing us in the Minority are nothing compared to the ones faced by the historical leaders mentioned earlier. And, therefore, if we, in the Minority, are willing to confront the problems of the nation with some finesse and with much consideration and respect for one another, call it love, if you will, we will come out more unified, more strong and more wise for the experience.

#### *Attitudes*

In my view, the problems that face the Minority today have to do more with attitudes rather than with the merits of demerits of our individual vote on the VAT last Wednesday.

The vote on the VAT was just the tip, so to speak, of the iceberg of the problems besetting the Minority.

#### *Civility in debates*

I was hoping that we could work with our colleagues in the Minority and in the Majority to move forward legislation to benefit the nation but with a large dosage of civility in our legislative debates, disputations or disagreements.

However, it looks like that that ideal is being sidelined.

I do not blame anyone for this phenomenon. For all I know, I am also to blame for it.

#### *Base motives*

That said, I believe that we, who belong to the Minority, are in the group because we adhere to the proposition that for democracy to survive, our country needs a responsible opposition in the legislature. We, the responsible opposition in the Senate, have a role to discharge and that is to ensure that the “Yes” view that usually accommodates the desires of the administration is not the only side that must be heard. The “No” view and other views as well should be aired on the floor of this Chamber so that the people will see the whole picture of whatever it is that is being discussed in the legislature.

I see, however, a tendency for us to oppose not only the Majority but even one another in the Minority. Up to a point, that is all right. But in all candor I cannot understand why ill motives should be imputed to those who oppose our views or why others should cast aspersions to us who disagree with theirs.

#### *Muddling up issues*

Not only do deprecatory assertions muddle up the issue under discussion but once we impute evil motives to those who disagree with us, what is to prevent them from counter-charging that we are also motivated by considerations less than noble? There will, thus, be no end to motives-casting from one end of the political spectrum in the Senate to the other.

In the process, we all lose because in the heat of the charges and countercharges, the matter at issue will be clouded with so much emotional and irrational argument that in the end, we will all be gasping for breath trying to figure out what it was that got us so heated up in the first place.

#### *Appeal to all*

I air these observations as an appeal not only to our colleagues in the Minority but also to our colleagues in the Majority.

On the VAT issue, some of our colleagues in the Majority have gone to town insinuating that those of us who voted to insert a no pass-on provision in the bill are irresponsible legislators. I see that erroneous logic as an attempt to mislead the people into believing that if we did not VAT electric or gas providers, there would be no need to tack on the bill a "no pass-on provision" that was approved by the Senate.

The problem with that argument is that it is based on the wrong premise. If the electric or gas providers were not covered by VAT, they would continue to get away with billions of pesos in profits while the Senate will, in effect, be seen as callously squeezing a few pesos more in the form of the VAT from our less fortunate brethren who are now barely able to eke out a living.

I do hope, then, that even in the espousal of our differing opinions before the bar of public opinion, we should be less prone to issue deprecatory statements so that we do not unnecessarily incite our people's anger against one another.

That is probably why Erasmus wrote as early as 1530 that society needs certain rules of *civilitate* that would ensure harmonious relationships and productive behavior of the inhabitants.

### *Restraint*

In my case, since last Thursday, I have tried to restrain myself from issuing public comments on what I would do or not do on matters that affect the Minority from what we might call the Enrile flap.

I told the inquisitive mass media that I would not want to pour gasoline into the fire stoked by the statement of Sen. Juan Ponce Enrile that he was breaking away from the Minority. I told our friends in the mass media that I had sent a text message to Sen. Juan Ponce Enrile to tell him that even if I still had to read of his alleged statement in full "if I had hurt him by my remarks last Wednesday evening, he has my apologies because those remarks were not meant to do so (that is, to hurt him)."

They were made merely to underline the fact that our voting "No" to the VAT did not make us "obstructionists".

Incidentally, my posture of restraint is being misunderstood by some of our friends in the mass media and by our own constituencies. Some of them think that I am trying to evade a crucial issue that may split the Minority irreparably or that we are scared to confront the issue head-on.

Not so, I want them all to understand that there are things that ought not to be discussed publicly prematurely as the publicity might only unduly worsen matters and make them more complicated than they actually are. Indeed, I recognize that the media have a duty to write about things that happen in the Senate but they should also understand that we cannot allow them to define what we do or intend to do as legislators.

After having slept on the controversy spawned by the unfortunate remarks made last Wednesday by some of us, myself included, I would like to suggest that if the matter is threshed out thoroughly and dispassionately, we will come to the conclusion that it was really "much ado about nothing."

### *Consensus*

In passing, let me mention that we, in the Minority, try to define our stand on basic issues brought before the Senate by consensus. We do not stifle dissent or discourage differing views in our ranks. It is only when we shall have arrived at a consensus that we expect everyone to adhere to what has been agreed upon.

With consensus as the basic operating principle of decision-making by the Minority, I would like to put it on record that we had agreed that on the VAT bill, our collective stand would encompass the following:

1. No to the 2% VAT increase;
2. Yes to the retention of the present 10% VAT; and
3. Yes to the removal of the exemptions in the present VAT.

*ms*

I am happy to note that all the members of the Senate Minority, including Senator Enrile, complied with the agreement.

On other amendments to the present VAT law, the members of the Senate were free to vote as they would choose.

Again, every member of the Minority adhered to that proposition without exception.

Now when the bill was subjected to the Third Reading, Senator Enrile changed his vote from "No" to "Yes." Let me put it as clearly as I can: We had no problem with that. We recognize that changing his mind was his privilege.

#### *Problem arises*

The problem arose when he explained that he voted "Yes" because he did not want to be considered "an obstructionist". The implication was clear that those of us who would vote "No" were obstructionists.

It was for that reason that when Senator Lacson explained his vote, he opened with the line that even if he was voting "No," he was no obstructionist.

I guess other members of the Minority like Sen. Jinggoy Estrada and Sen. Loi Estrada who also voted "No" likewise voiced similar sentiment when they explained their votes.

#### *No control*

When it was my turn to explain my vote, I verbalized very candidly my resentment over what I felt was Senator Enrile's ingenuous explanation.

When I did so, there was no intent to control, compel or coerce the Senator to vote with us, who were voting "No." And none whatsoever was exerted on him to make his change his mind anew.

#### *Free vote*

Senator Enrile was free to vote as he did. Voting "Yes" or "No" to the VAT bill was something that the Minority allowed our

members to do as they pleased. Since the Senator did not violate any of the agreements the Minority had on the VAT, there was no reason whatsoever for us to complain against his changing his vote from "No" to "Yes." But we did express our disapproval over the explanation that he gave for changing his vote as I have stated earlier.

In any event, I would like to say that if Senator Enrile wants to leave the Minority, we would be the losers for it. We would miss his incisive views on the issues that confront the Senate. We would miss his usually perspicacious comments that helped guide us in the determination of the stand we, as Minority, had taken now and then on matters of national interest. We would miss the benefit of his long experience in government in threshing out contentious issues that daily confront the nation. In fine, his leaving the Minority would be a great loss to us.

In the end, however, it is his call. And we would like to put it on record that whatever his decision will be, we will respect it as befits mature people.

#### *Working together*

As I wind up this talk, let me say that in a working democracy such as what this nation purports to be, the Majority and the Minority in the Senate must work together to promote the public weal without, of course, the Minority's abdicating its right to oppose any majority proposal that might be detrimental to the national interest. And if I might add, in an honest to goodness attempt to reach a democratic agreement on what is good for the people.

Just so I am not misunderstood, I wish to state that I am not angry with anyone. I do not think that anger or even personal disappointments should even influence the way we do our duties in this Chamber or anywhere as public servants.

I have thought of deferring this talk to some other time so that all our colleagues will hear directly what I am now stating for the record. However, to delay this exposition might tender stale the issues I have just

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brought to the floor. In any event, since this discussion does not disparage any Member of this Body, there is no need to wait for his or her presence out of courtesy that is due to a colleague. Moreover, this statement is recorded and those who are not here but would want to respond to it would have ample opportunity to do so at some future time.

In the meantime, I thank the Chamber for kindly listening patiently to this statement to clarify some misimpressions relative to the voting on the VAT bill that may have repercussions in the relationships among us, the Minority senators, and our relationship with the Majority of this Chamber.

**COMMITTEE REPORT NO. 11 ON  
PROPOSED SENATE RESOLUTION NO. 191  
(Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration of Proposed Senate Resolution No. 191 (Committee Report No. 11), entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE THAT BURMA SHOULD NOT ASSUME THE CHAIRMANSHIP OF THE ASEAN IN 2006 UNLESS THERE HAS BEEN COMPLIANCE WITH THE PRINCIPLES OF HUMAN RIGHTS LAW, PARTICULARLY THOSE WHICH NECESSITATE THE FREEDOM FROM HOUSE ARREST OF AUNG SAN SUU KYI AND PARTICIPATION OF HER POLITICAL PARTY IN THE POLITICAL PROCESS IN BURMA.

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

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

**INTERPELLATION  
OF SENATOR PIMENTEL**

Senator Defensor Santiago recalled that Proposed Senate Resolution No. 191 stemmed from

Senator Pimentel's privilege speech on December 1, 2004, which was referred to the Committee on Foreign Relations. She said that the Committee conducted hearings on the matter with mostly people from the Department of Foreign Affairs as resource persons. She stated that Senator Enrile interpellated her after her sponsorship speech.

Replying to Senator Pimentel's queries, Senator Defensor Santiago affirmed that the tenor of the resolution is such that the Senate is calling on Myanmar to normalize the situation in Burma and in doing so, to include the freedom from house arrest of Aung San Suu Kyi and the other NLD members, which sentiment is expressed in the lone "Wherefore" paragraph of the resolution. But she clarified that the resolution avoided the phrase "should not be allowed to assume chairmanship" in case the leaders of Myanmar do not respond to the Senate's suggestions and that it simply said that "Burma should not assume the chairmanship of ASEAN in 2006." She also cited the consensus among ASEAN foreign ministers that any solution to the Burma problem would include dialogue with its leaders and that Burma should not be expelled if it is unable to comply with a resolution of this nature. She said that the wording of Proposed Senate Resolution No. 191 leaves it to Burma whether it would continue to assume chairmanship of the ASEAN.

Moreover, Senator Defensor Santiago disclosed that the Body should avoid raising the suspicion among other ASEAN countries that the Philippines has an inordinate interest to disqualify Burma from the chairmanship because the Philippines is next to Burma by rotation. She invited the Members to help in the phrasing of the resolution which is really just an attempt at diplomacy in order to prevent unnecessarily raising the hackles of Burma.

Senator Pimentel said that since Burma is known in ASEAN as Myanmar, the Philippines comes after it alphabetically. For the record, he informed the Body that the Myanmar issue was discussed at the recent IPU conference although not as part of the main agenda as he had hoped. He disclosed that the IPU Committee on Human Rights condemned in plenary session the human rights violations in Myanmar, including the incarceration of Aung San Suu Kyi but the Committee only mentioned the movement among Asian parliamentarians to question the right of Myanmar to

chair ASEAN in 2006. Nevertheless, he noted the strong worldwide sentiment among parliamentarians to put pressure on Myanmar authorities to normalize their country's democratic processes.

Conceding that the Executive department cannot be as forceful as the legislature in expressing its sentiments, Senator Pimentel asked how the Body can prod the government to bring pressure on Myanmar without breaching the normal diplomatic niceties. He pointed out that the important thing is for the Philippine government to express its sentiments that Myanmar should not assume the ASEAN chairmanship unless it shall normalize its situation.

Senator Defensor Santiago affirmed that the United Nations since 1988, the IPU since 1990 and the European Union since its establishment have consistently condemned Burma for its alleged human rights violations in the hope of exerting pressure on Burma. Incidentally, she explained, the new name "Myanmar" was coined by the military regime which has been in power for over 43 years. She said that those opposed to the human rights violations in Burma use the latter name, especially since the regime came into power through a coup d'etat. She stressed that 43 years is too long a time to justify the presence of the military as necessary to restore order or to prevent the economic collapse of Burma.

Nonetheless, Senator Defensor Santiago informed the Body that a constitutional convention is underway because Burma's Constitution has been suspended since the present administration came into power. She lamented, however, that the Opposition is barred from participating in the convention. Considering that the Constitution would be the basic document of Burma in the years to come, she believed that the Philippines, in order to maintain its credibility in the international arena, should express its comment that the Opposition be represented in the constitutional convention.

Adverting to the caution expressed by a Member when he said that the Senate should be careful with the Burma issue because of its natural resources, Senator Defensor Santiago said that its present political turmoil has not helped Burma develop its natural resources. Citing data from the DTI showing that Philippine exports to Burma in 2004 amounted to US\$7.3 million whereas the Philippines' imports from the same country

amounted to only US\$2.4 million, she stated that the most that Burma could do is to refuse the exports from the Philippines but she believed that the military junta would not consider that as an option since Burma needs the Philippine exports. She posited that it was high time that the Senate took a strong position on the Burma issue.

Senator Defensor Santiago further pointed out that President Arroyo had already expressed her strong stand for the ASEAN vision of a vibrant and democratic community when she welcomed the membership of Myanmar to the ASEAN. She disclosed that the President had, in fact, instructed Secretary Romulo to state during the ASEAN Foreign Ministers' meet that the Convention should include the participation of parties including the National League for Democracy and its leader Daw Aung San Suu Kyi. She said that the Senate's petition is in consonance with the formal statements of the President. Further, she urged the Senate to go beyond what is diplomatically acceptable which is an accepted practice in parliaments all over the world when legislators want to help the President push issues.

As regards the need for consensus as a basis for action, Senator Pimentel asked whether the Philippines' objection to the chairmanship of Myanmar could be interpreted as a lack of consensus. Senator Defensor Santiago conceded that technically, there would be no consensus should the Philippines make of record its objection to a certain course of action. However, she said that the Philippines' action would be left to the other foreign ministers to judge and who might wish to define consensus in another way or to change the rules altogether. She informed the Body that after the closed-door ASEAN Ministerial Retreat in Cebu, Secretary Romulo briefed ambassadors and representatives of the ASEAN and its dialogue partners that all the foreign ministers aired their concerns about the Burma issue which Myanmar Foreign Minister Aung Yan Win committed to bring to the leadership in Rangoon. She noted, however, that although the Philippines reiterated its hope that Myanmar would comply with the road map to democracy by releasing Aung San Suu Kyi, including the NLD in an all-party conference, and granting the request of the UN Secretary General that special envoy Razali Ismail be allowed to return to Myanmar, no mention of the chairmanship was made during the briefing. *ms*



At this juncture, the Chair clarified that by tradition and practice, the chairmanship in the ASEAN rotates and if there is an effort to prevent Myanmar from assuming the chairmanship, all the members must agree that Myanmar should not assume the post.

Senator Defensor Santiago agreed that to do it the other way around in effect would give one state the veto power over the rest of the members.

On Senator Pimentel's argument that the veto power is inherent in the consensus formula, the Chair stated that the earlier consensus was that Myanmar, being next in the alphabet, would be the next chair so to break the consensus, it needs the unanimous vote of all the ASEAN members.

Senator Pimentel maintained that it could be argued that subsequent events might militate against a previously held consensus. However, he pointed out that passing the resolution for the information of all was the important thing even as he hoped that a statement regarding the chairmanship could be inserted.

Senator Defensor Santiago pointed out that such is the substance of the "wherefore" paragraph but she expressed openness to an amendment at the proper time should it be shown that the present text of the resolution was less effective than the other proposals.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 4:41 p.m.*

#### **RESUMPTION OF SESSION**

At 4:44 p.m., the session was resumed.

#### **TERMINATION OF THE PERIOD OF INTERPELLATIONS**

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

#### **TERMINATION OF THE PERIOD OF AMENDMENTS**

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

#### **ADOPTION OF PROPOSED SENATE RESOLUTION NO. 191**

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 191 was adopted by the Body.

#### **PROPOSED SENATE RESOLUTION NO. 194 (Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration of Proposed Senate Resolution No. 194, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE THAT THE PHILIPPINES SHOULD GIVE A NEW IMPETUS TO ITS ECONOMIC RELATIONS WITH THE EUROPEAN UNION AND ITS MEMBER STATES, IN PARTICULAR IN THE POLITICAL AND ECONOMIC AREAS, AND TO STUDY FOR THAT PURPOSE THE POSSIBILITY OF FORMALIZING IN AN APPROPRIATE FORM THE RELATIONS BETWEEN THE EUROPEAN UNION AND THE PHILIPPINES.

#### **TERMINATION OF THE PERIOD OF INTERPELLATIONS**

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

#### **TERMINATION OF THE PERIOD OF AMENDMENTS**

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

**SUSPENSION OF SESSION**

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

*It was 4:46 p.m.*

**RESUMPTION OF SESSION**

At 4:47 p.m., the session was resumed.

**ADOPTION OF PROPOSED SENATE RESOLUTION NO. 194**

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 194 was adopted by the Body.

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 4:48 p.m.*

**RESUMPTION OF SESSION**

At 4:48 p.m., the session was resumed.

**COMMITTEE REPORT NO. 12 ON PROPOSED SENATE RESOLUTION NO. 195 (Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Proposed Senate Resolution No. 195 (Committee Report No. 12), entitled

**RESOLUTION CONCURRING IN THE RATIFICATION OF THE FRAMEWORK CONVENTION ON TOBACCO CONTROL.**

Senator Pangilinan stated that the parliamentary status was the period of interpellations. He said that Senator Osmeña, who had earlier expressed his desire to interpellate, was withdrawing his reservation.

**TERMINATION OF THE PERIOD OF INTERPELLATIONS**

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

**TERMINATION OF THE PERIOD OF AMENDMENTS**

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

**SUSPENSION OF CONSIDERATION OF PROPOSED SENATE RESOLUTION NO. 195**

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

**RECONSIDERATION OF REFERRAL**

Senator Pangilinan stated that Senator Pimentel had expressed his desire to interpellate on the privilege speech delivered by Senator Lim last April 12, 2005, which was referred to the Committee on Justice and Human Rights.

Thereafter, upon motion of Senator Pangilinan, there being no objection, the Body reconsidered the referral of the speech and opened the same for interpellation.

**INTERPELLATION OF SENATOR PIMENTEL**

At the outset, Senator Pimentel stated that he had wanted to interpellate Senator Lim on the day the speech was delivered but he came late because of a previous engagement.

Replying to queries, Senator Lim said that Col. Manolo Martinez was the precinct commander of Precinct 8 of the Western Police District when he was killed in broad daylight on October 18, 2004, right in front of his own precinct station in Sta. Mesa, Manila, the motivation of which was a big question mark.

Senator Pimentel deplored that it was very disturbing that not only journalists but also police officials are being liquidated by armed men. But more deplorable, he stressed, is that an innocent person was made to answer for the murder of Colonel Martinez.

Senator Lim affirmed that Jun Felizardo who was arrested on October 20, 2004, and is presently

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incarcerated at the Bicutan Detention Center after spending time in other detention centers, is a "fall guy" because he was framed up by some officers of the WPD.

Asked why he believed that Felizardo is a "fall guy," Senator Lim explained that some officers of the Western Police District used the statement of a certain Francis Abuyuan that identified Jun Felizardo as one of the perpetrators of the assassination of Colonel Martinez. However, he said, Mr. Abuyuan later recanted his statement, claiming that he was just forced by the police investigators, who were under pressure to solve the case within 48 hours, to implicate Mr. Felizardo. He recalled that when he attended the wake of Colonel Martinez, he learned that the family of the late police officer did not believe Felizardo was the killer because the family had received reports about a certain group responsible for his killing. Furthermore, he disclosed that another group called *Partisano*, a carry-over of the Alex Boncayao Brigade, claimed responsibility for the assassination because of Colonel Martinez' role in the dispersal of rallyists and demonstrators against the government.

Senator Lim also recounted that Felizardo's relatives came to ask his help. He said that Mrs. Felizardo had told him that she and her husband were in San Jose Del Monte, Bulacan on the day Colonel Martinez was killed. Senator Lim stated that he sent retired Col. Carlos Baltazar to verify Mrs. Felizardo's story and Colonel Baltazar reported that Felizardo's friends and neighbors in Bulacan confirmed that Felizardo was in San Jose Del Monte at the time Colonel Martinez was murdered, so it was physically impossible for Felizardo to be present in two places at the same time. In fact, he stressed, five sworn statements were gathered to support the claims.

*(At this juncture, the Senate President relinquished the Chair to Sen. Pia Cayetano.)*

Moreover, Senator Lim related that Francis Abuyuan went to his office before the Lenten break and he confessed that he implicated Felizardo because the police investigators pressured him with the promise of a share in the P500,000 reward. He said that Abuyuan also revealed that his real name is Antonio Prestado. He stressed that Abuyuan signed a recantation affidavit and personally recanted his false testimony in an

interview with Assistant Prosecutor Armando Velasco who is handling the case.

Senator Pimentel expressed disgust at the cavalier treatment of an unlettered person who has been imprisoned over a long period of time for a crime he did not commit, particularly when the only witness had already withdrawn his false affidavit before the prosecuting fiscal.

On the attempt to kill Felizardo while in prison, Senator Lim recalled that he requested Secretary Reyes to transfer Felizardo to another place because he had a feeling that Mr. Felizardo would be killed inside the city jail. He said that Secretary Reyes contacted General Aglipay who then ordered NCRPO Chief Avelino Razon to effect the transfer. He stated that General Razon wrote a letter of request on November 5, 2004 to Judge Daculag of the Regional Trial Court in Manila, the presiding judge handling Felizardo's case, but the judge forgot to act on it. On December 8, 2004, he narrated that Felizardo was scheduled to be brought to Assistant Prosecutor Velasco's office when he was stabbed in the neck by an inmate in the city jail, but Felizardo was able to grab the arm of his assailant.

Senator Lim said that when he learned of the incident, he immediately called General Razon who then ordered the transfer of Felizardo to Bicutan. But in this tragedy of errors, he said, Felizardo was placed in the company of the Abu Sayyaf suspects who figured in the Bicutan siege; fortunately, he survived the assault. He informed the Body that last week, he requested Secretary Reyes and PNP Director General Arturo Lomibao to take immediate precautionary measures to ensure Felizardo's safety as he might not be so lucky next time around.

Senator Pimentel stated that the more immediate solution is for the prosecutor to ask for the dismissal of the case based on the incontrovertible evidence that Felizardo had nothing to do with the crime. Having been incarcerated during the Marcos regime, he said that detaining a person even for one minute without cause is an eternity of injustice to said person. He stated that Felizardo is a very graphic example of a person who does not know where he can have redress for his grievances. He then requested that the Chamber immediately pass a resolution directing the City Prosecutor, through the Department of Justice, to expeditiously assess the evidence so that Felizardo could be freed as early as

possible, and that the proper committee immediately act on the matter.

Expressing support to the passage of a resolution, Senator Lim appealed to the Members to take up the cudgels for Felizardo because each passing day is a continuing violation of his rights. Those responsible for the sad plight of Felizardo, he said, should be man enough to admit their mistakes and work on the release of Felizardo from prison. He stated that he has also appealed to President Arroyo for the speedy resolution of the case. He stressed that Felizardo has no record whatsoever while the hoax witness who is a police asset has a terrible police record.

Further, Senator Lim said that he was told that the same officers responsible for the framing up of Felizardo had asked the hoax witness to inform the Makati police that he knows the suspects in the February 14 bombing incident in EDSA. He wondered whether the present system of investigation in the country operates by framing up innocent and poor citizens, who could not afford to hire the services of good lawyers, just to make it appear that high profile or sensational cases have been solved.

Senator Pimentel said that the Body could pursue the call for an expeditious hearing to be conducted by the proper committee and request the Senate President to write a letter to the Department of Justice urging the prosecutor concerned to expedite the resolution of Felizardo's case.

#### **MANIFESTATION OF SENATOR PANGILINAN**

Senator Pangilinan manifested that Senate President Drilon would formally write the Department of Justice to expedite action on the matter.

#### **REFERRAL OF SPEECH TO COMMITTEE**

Upon motion of Senator Pangilinan, there being no objection, the Chair referred Senator Lim's privilege speech and the interpellation thereon to the Committee on Justice and Human Rights.

#### **ANNOUNCEMENT OF THE CHAIR**

The Chair advised the Members to proceed to the Session Hall of the House of Representatives before four o'clock in the afternoon of the following day for the Joint Session of Congress to hear the address of His Excellency Pervez Musharraf, President of the Islamic Republic of Pakistan.

#### **ADJOURNMENT OF SESSION**

Upon motion of Senator Pangilinan, the Chair declared the session adjourned until four o'clock in the afternoon of the following day for the Joint Session of Congress, after which, the session of the Senate shall be considered adjourned until three o'clock in the afternoon of Wednesday, April 20, 2005.

*It was 5:27 p.m.*

I hereby certify to the correctness of the foregoing.

OSCAR G. YABES  
Secretary of the Senate  
M/Y

Approved on April 20, 2005