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SESSION NO. 89

Tuesday and Wednesday

June 6 and 7, 2006

**THIRTEENTH CONGRESS
SECOND REGULAR SESSION**

SESSION NO. 89
Tuesday and Wednesday
June 6 and 7, 2006

CALL TO ORDER

At 3:33 p.m., Tuesday, June 6, the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

The Body observed a minute of silent prayer.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 3:33 p.m.

RESUMPTION OF SESSION

At 3:38 p.m., the session was resumed.

ROLL CALL

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

Angara, E. J.	Lacson, P. M.
Cayetano, C. P. S.	Madrigal, M. A.
Drilon, F. M.	Pangilinan, F. N.
Ejercito Estrada, J.	Pimentel Jr., A. Q.
Ejercito Estrada, L. L. P.	Revilla Jr., R. B.
Flavier, J. M.	Roxas, M.
Gordon, R. J.	

With 13 senators present, the Chair declared the presence of a quorum.

Senators Arroyo, Biazon, Enrile, Lapid, Lim, Osmeña and Recto arrived after the roll call.

Senator Villar, who was on official mission, arrived after the roll call.

Senator Magsaysay was on leave abroad for medical reason.

Senator Defensor Santiago was on sick leave.

**ACKNOWLEDGMENT OF
THE PRESENCE OF GUESTS**

At this juncture, Senator Pangilinan acknowledged the presence of the officers of the Clark Investors and Locators Association: President Frankie Villanueva, Directors Jennie del Rosario Ng and Dennis Anthony Uy; locators, members and employees from the Clark Development Corporation; and representatives from the Bases Conversion and Development Authority.

**DEFERMENT OF THE
APPROVAL OF THE JOURNALS**

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the approval of the Journals of Session Nos. 86 (May 22, 23, 24, 25, 26, 29, 30, and 31), 87 (June 1 and 5) and 88 (June 5 and 6).

REFERENCE OF BUSINESS

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

BILL ON FIRST READING

Senate Bill No. 2258, entitled

**AN ACT DECLARING ARNIS AS
THE NATIONAL SPORT OF THE
PHILIPPINES**

Introduced by Senator Manuel "Lito" M. Lapid

**To the Committees on Education, Arts and
Culture; and Games, Amusement and Sports**

RESOLUTION

Proposed Senate Resolution No. 489, entitled

**RESOLUTION DIRECTING THE APPRO-
PRIATE SENATE COMMITTEES TO**

PB 

INQUIRE, IN AID OF LEGISLATION, ON THE ALLEGED ANOMALIES PERPETRATED BY OFFICIALS OF THE NATIONAL PRINTING OFFICE THAT INCLUDE THE USE OF ITS RESOURCES AND POWERS TO FAVOR CERTAIN ENTITIES, AND TO PROMOTE THIS PRESENT ADMINISTRATION'S EFFORTS TO AMEND THE 1987 CONSTITUTION THRU PEOPLE'S INITIATIVE

Introduced by Senator Lacson

To the Committees on Accountability of Public Officers and Investigations; and Constitutional Amendments, Revision of Codes and Laws

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 3:41 p.m.

RESUMPTION OF SESSION

At 3:42 p.m., the session was resumed.

COMMITTEE REPORT NO. 72 ON SENATE BILL NO. 2254 (Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2254 (Committee Report No. 72), entitled

AN ACT ABOLISHING THE DEATH PENALTY.

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

REMARKS OF SENATOR PIMENTEL

Senator Pimentel informed the Body that he would be defending the bill on behalf of Senator Arroyo, chairman of the Committee on Justice and Human Rights, and would do his best to answer all queries. He conceded that the problem lies in defining the

penalties that shall replace the death sentence as well as the kind of accessory penalties that shall be recognized if the death penalty was removed and substituted with, for instance, *reclusion perpetua*, for crimes defined in the Revised Penal Code, or life imprisonment for crimes defined in special laws. He recalled that Senate President Drilon had suggested the reduction of the penalty from death to life imprisonment without parole which is a reasonable compromise.

At this juncture, the Chair suggested the crafting of the proper amendment for the consideration of the Body at the appropriate time. Senator Pimentel noted that Senator Lacson had the same view and had, in fact, offered the information that European countries that have abrogated the death penalty meted imprisonment without parole in its stead.

INQUIRY OF SENATOR LACSON

Asked by Senator Lacson if there was a consensus among senators to approve the proposed amendment of Senate President Drilon to impose life imprisonment without parole in place of the death penalty, Senator Pimentel replied that this was the emerging consensus on the issue.

Thereupon, Senator Lacson withdrew his reservation to interpellate without prejudice to using it in the event there is no guarantee that the proposed amendment would be taken into consideration by the Body. Senator Pangilinan clarified that the withdrawal of Senator Lacson's reservation would be made without prejudice to his right to ask questions during the period of amendments if the issue is not squarely addressed.

INTERPELLATION OF SENATOR ROXAS

Senator Roxas stated that he was supporting the measure not because he was against the death penalty *per se*, but because of the inability of the present prosecutorial, judicial and law enforcement agencies to consistently deliver the standard of blind justice for all.

He expressed concern about the proper implementation of judicial standard, noting that many of those apprehended and convicted belong to the poor socio-economic class who are unable to avail themselves of proper legal advice or hire investigators and other experts needed to put their case forward.

MS A

At this juncture, Senator Pimentel informed the Body that the group of Lauro Vizconde and Dante Jimenez, and other groups who are against the repeal of the death penalty, have informed him of their desire to air their views on the matter, and that he has referred the matter to Senator Arroyo.

INTERPELLATION OF SENATOR EJERCITO ESTRADA (J)

Asked by Senator Ejercito Estrada (J) if Congress is prepared to admit that it has committed a mistake in enacting Republic Act No. 7659, Senator Pimentel stated that even before making a move to legislate bills of such nature, Congress examines the prevailing situation in the country. However, he noted that since that particular period in the Spanish era when less than 100 persons of the 1,700 death convicts were executed, there has always been reluctance on the part of government to execute even those who had already been convicted. He added that the history of execution of criminals worldwide showed that the death penalty was not a deterrent to potential offenders. He said that aside from the Philippines, the whole Western Europe has also insisted on repealing the death penalty law which has been in their statute books for sometime.

Asked if he was a member of the Senate when the death penalty bill was enacted into law, Senator Pimentel replied in the negative, saying that he has always abhorred the death penalty because it is inconsistent with the constitutional prohibition of cruel, degrading or inhuman punishment under the International Covenant in Civil and Political Rights, to which the Philippines is a state party. He also believed that penalty must have a restorative aspect to give the offender the chance to rebuild his life.

Asked whether the gravity and nature of the heinous crimes enumerated in R.A. No. 7659 can be considered as compelling reasons for the imposition of the death penalty, Senator Pimentel stated that this kind of classification does not give the judge the leeway to determine the particular circumstances of a crime, which he has to take into consideration when he renders his decision. He added that because of the mandatory imposition of the death penalty for certain crimes, there are actually convicts in the death row who are youthful offenders or mentally imbalanced, circumstances that would have lessened the penalty.

On whether recidivism could be considered as a compelling reason for the imposition of the death penalty, Senator Pimentel stated that under criminal law, recidivism is considered an aggravating circumstance, which normally increases the penalty of a crime under the Revised Penal Code.

Recalling the 9/11 attack on the United States, asked whether a crime of such magnitude could be considered as a compelling reason for the imposition of the death penalty, Senator Pimentel maintained that the penalty should be less than death. He pointed out that there is not a single state in Western Europe that imposes the death penalty, not even in England which has a very stringent law against terrorism. Incidentally, he said that the United States has advised the Philippines to approve its own version of the anti-terrorism law at the soonest possible time.

To the concern that the abolition of the death penalty would only encourage assassinations, rubouts and salvagings on the part of the law enforcers, and vendettas and vigilantism on the part of heinous crimes victims and their families, Senator Pimentel expressed the view that vigilantism is not necessarily committed by relatives of the victims. He believed that the fast and judicious use of law enforcement, not the imposition of the death penalty, would deter crime.

Senator Ejercito Estrada (J) cited the Philippine National Police crime index for the period 1993 to 2003 which showed a downward trend up to the end of 2000, with the lowest index during the term of President Estrada. He surmised that the decrease in the crime index during the Estrada administration was correlated to its policy on the imposition of the death penalty. He recalled that the Estrada presidency carried out seven executions – four for rape and three for murder. He noted that no death sentence has been carried out under the Arroyo administration but there are a lot of death squads.

Senator Pimentel commented that President Estrada strictly enforced the law and order, and stopped the executions. He contended that the increase in criminality under the Arroyo Administration could be attributed more to the fact that President Arroyo herself makes a mockery of law and order, which is affected by factors other than the execution of criminals. Moreover, he argued that poverty and other oppressive situations presently obtaining in the country drive people to commit crimes more than the non-implementation of the death penalty.

N. P.

Senator Ejercito Estrada (J) observed that innocent victims from the poor and marginalized sectors of society are often falsely accused and meted the death penalty or life imprisonment because they are unable to secure the services of good lawyers to defend them. Asked how Congress can help these people, Senator Pimentel replied that the solution is to appoint many public defenders if the problem is merely the deprivation of justice because of poverty but it would be a temporary remedy. He stressed that the solution is to eliminate poverty which spawns all kinds of ills in society and the way to do that is to put priority to the creation of real jobs. He explained that the creation of jobs is a function of stability in government, predictability of policies and profitability of investments, both foreign and local. He stressed that government must have a firm policy on creating the business environment that would provide jobs for the people.

Further, Senator Pimentel conceded that a poor litigant cannot afford more competent counsel and worse, a court-appointed lawyer has no affinity and empathy for a poor litigant. He cited a case where the U.S. Supreme Court ordered a review of the death penalty imposed on a client because the court-appointed lawyer slept during the proceedings.

Senator Ejercito Estrada (J) said that he would rather support the abolition of the death penalty considering that it is the poor, the downtrodden, the illiterate and the powerless in the country who are oftentimes sentenced with the death penalty.

MANIFESTATION OF SENATOR LIM

At the outset, Senator Lim stated that as a former police officer, he had seen countless victims being humiliated, sexually exploited and subsequently killed because of drugs. He said that he has always been a hardliner on the imposition of the death penalty, especially for drug lords. He recalled the series of rapes of young students, 16 to 18 years old, in Manila, who were lured by a sexually starved driver and later were mutilated, but the rapist when caught was smilingly unrepentant. He said that a triple lethal injection would not be enough for such a criminal.

Senator Lim then delivered the following statement:

Death penalty must be applied to all, otherwise, to none at all. *Para ano pa ang death penalty kung hindi naman natin i-impose?*

Death penalty as many perceive is the gravest form of punishment that an offender can suffer from or be meted with. In ancient times, it was used to avenge the wrong done to another. But as man became civilized, death penalty acquired social significance because rather than being employed to repay individual loss or avenge personal damage, it was intended for society's preservation.

As early as 1886, the death penalty was integrated in our legal system through the old Penal Code, copied from the Spanish Penal Code of 1870. During the American occupation, it was carved in our statute books with the enactment of the Revised Penal Code (Republic Act No. 3136) on January 2, 1932.

Under this law, death penalty is imposed for the crime of treason, correspondence with the enemy during times of war, qualified piracy, parricide, murder, infanticide, kidnapping, rape with homicide or with the use of deadly weapon, or by two or more persons resulting in insanity, robbery with homicide, and arson resulting in death. Of course, subsequent laws also imposed death penalty on espionage under Commonwealth Act No. 616; death penalty for leaders of rebellion under the Anti-Subversion Act, Republic Act No. 1700; Anti-Hijacking; Dangerous Drugs Act; Anti-Carnapping; and Presidential Decree No. 1866 for crimes involving homicide with the use of illegally possessed firearms.

I have always been an advocate of and believer in death penalty as a form of punishment, not because it is a deterrent to those who contemplate committing murders, rape or other heinous crimes, not because it can send shivers to the spines of those with ambition of overthrowing the government, not because it can eliminate the parasites that destroy society, but because I know that it was the most appropriate and fitting retribution or measure to give justice to the victims of crimes like rape, murder, arson or even syndicated crimes involving fraud such as the pyramid scam and this pre-need scheme.

I have grieved for victims whose loved ones have been slain brutally, mercilessly and without compunction by their murderers. My heart burned with rancor against rapists of innocent girls, children, women and even elders whose chaste lives had been ruined and despoiled because of bestial urges of rapists. I abominate and cursed the drug lords, drug pushers, and those who had destroyed the serenity, future and family solidarity of those who were tempted to cater to the addict's evil merchandise.

MS

To these transgressors of law, I had always prayed that death was the appropriate and suitable penalty to give justice to their victims because we value the lives of the victims.

Which was why, when the 1987 Constitution abolished death penalty, unless Congress would re-impose it for compelling reasons involving heinous crimes [ART. III, Sec. 19 (1)], I asked myself: How else can the victims of the filthy and grievous crimes be vindicated?

But then, my misgiving about the abolition and the torment of injustice that had pestered my mind did not last long because this august Body, led by our late brethren Senator Arturo Tolentino, chairman of the Special Committee on the Death Penalty, voted to reincorporate death as a penalty in the scale of penalties as provided for in the Revised Penal Code. Senate Bill No. 891 that sought to re-impose death penalty was debated from March 17, 1993 up to August 13, 1993. With a vote of 17 affirmative, four negative, and one abstention, the bill was approved on August 16, 1993.

On the other hand, it took the House from October 27, 1992 to February 11, 1993 to debate upon House Bill No. 62 and overwhelmingly approved it on February 11, 1993 with a vote of 123 in favor, 26 against and two abstentions. Thus, came Republic Act No. 7659, otherwise known as "An Act to Impose the Death Penalty on Certain Heinous Crimes."

The first casualty of the law was Leo Echegaray whose death sentence for raping his daughter for a number of times was affirmed by the Supreme Court with finality on February 7, 1997. We all know that the sentence was implemented as President Joseph Estrada refused to grant any executive clemency.

Many more, I am sure, have been sentenced to death by the lower courts and duly affirmed by the Supreme Court. Yet, after Echegaray, and three others that joined him in the chamber later, no more execution had been carried out because the death penalty convicts' sentences had been commuted.

Of late, we have learned that there was a mass commutation. So, there were no more prisoners waiting to be hanged or sent to the chamber for lethal injection.

Meantime, we can anticipate that those to be sentenced with death by our courts stand the pretty chance of obtaining presidential reprieves.

In effect, except for Echegaray and the three others who were executed, no death execution had been carried out or will still be so. It is clear that the law imposing death penalty had not been given its chance to prove its effectiveness and merits.

Second, by not implementing the law on death penalty to cases that are appropriately adjudged by our courts and affirmed by the Supreme Court, we are only indignifying and dishonoring our statutes, in effect, saying that laws are made to be broken or ignored. So let us repeal it now so that the blindfolded lady of justice will not castigate us for our insensitivity to the rule of law.

Finally, it seems that the death penalty is merely being used to tag wrong persons, indict fall guys, or even frame up charges against innocent persons who are made to suffer the agony of being indicted with a capital offense not because they have committed crimes, but because they are the convenient excuses to make money, create false scenarios, and satisfy the lust of immoral private and public officials' evil objectives.

It is pathetic to note that the death penalty as a standard of punishment did not benefit the poor and underprivileged but fancied the few rich and mighty. The relatives of victims of heinous crimes always found themselves powerless to realize full justice because those who have aggrieved them were able to get adequate detours and thwarted the penalty. On the other hand, if it were the poor who were accused, they bore the heavy force of the law.

I am sure you still remember the case of Jun Felizardo, the lone suspect in the killing of Colonel Manolo Martinez whose plight I brought to this august Body in my privilege speech because he was a victim of a frame-up. Up to now, Jun Felizardo is still under detention.

I made representations to about five generals, exposing the oppressive action committed on this innocent person whose only crime is to be a poor barbecue vendor. What about the case of the members of the Batasan 5 who were hastily and sweepingly charged with rebellion, a non-bailable offense, so they could be jailed, when it would appear that even the Department of Justice, at the first instance, did not sustain the charge as it granted them their freedom and liberty?

I just would like to point to you another specific case because I do not want to talk on generalities.

AP PO

If we recall the case of the lady manager of NAIA who was shot in broad daylight, a factory worker from Taguig, Rizal was arrested by the authorities. The parents of this poor boy came to us and asked for assistance. We made a countercheck whether he really had an involvement in that dastardly crime. We assigned a lawyer for his defense. When this innocent person who was framed up filed a complaint against the authorities, he was again subsequently arrested for the frustrated ambush of a Customs official which led to the death of his driver somewhere in the port area. Why? Because he dared to file a complaint. What happened to the original case of the murder of the lady manager of NAIA in which he is the suspect? Fortunately, the court acquitted him, and the family was in jubilation. But what happened? He was given temporary freedom but later on placed under arrest. He is now languishing in the Manila City Jail because he was again framed up in the Bureau of Customs official's frustrated ambush.

Ang alam ko, ang kidlat ay minsan lang tatama sa isang tao. Hindi iyong dalawang beses Kawawa naman itong taong ito.

Why, then, do we still have to continue with the death penalty and retain it in our statute books when we are not going to implement it at all, to all and for all? If this is the case, then that will be a greater injustice and will run counter to my crusade for law and order and my battle cry, "The Law Applies to All, Otherwise, None at All." *Para ano pa ang batas kung hindi ipatutupad sa lahat. Tanggalin na natin iyang mga batas na iyan.*

So, I had to change my heart and vote for the abolition of the death penalty because I do not want the poor victims of injustice continue to have false hopes and expectations that their tormentors, abusers, or those who have committed the gravest crime on earth against them stand to be meted the supreme penalty of death. And so I say, I now fully support the abolition of the death penalty.

INTERPELLATION OF SENATOR GORDON

Senator Gordon inquired if Congress would give scientific, logistic, and operations support to the country's law enforcement agencies, considering that many murder cases in the country have remained unsolved, such as that of Lydia Diaz who was killed at the NAIA. Senator Pimentel conceded that there

is need for budgetary support, as he cited a recent report that only 63% of the police force is armed with workable, usable firearms. He likewise recognized the lack of scientific equipment to help solve crimes, pointing out the fact that the entire police structure has only one DNA facility located in Camp Crame, and that it is not even known whether the equipment is handled by a competent person.

Senator Gordon said that if the death penalty were to be abolished, the policemen might cavalierly use the excuse of not having the resources. Thus, he averred, there might arise a *lex talionis* or retributive justice being exercised by people who take the law into their own hands. He then proposed the realignment of funds to the NBI that has an intelligence fund of only P18 million, while the Department of Tourism, whose need for an intelligence fund is questionable, has P5 million. Senator Pimentel expressed support for the proposal.

With the abolition of the death penalty, Senator Gordon assumed that there could be more brazen attacks against the civilian population; thus, there is a need to expand the prison system. He proposed the use of the vacant government lots and even the outsourcing of prison management to interested persons who have the capability to build business out of prison facilities. Senator Pimentel expressed willingness to try such innovative way which has already been done in the United States so that government could save money.

Pointing out the slow process of justice, Senator Gordon divulged that as an adequate excuse, and because of lack of intelligence funds, science knowhow and resources to go after the real killers, *law enforcers pick up suspects for media mileage.* Recalling that he railed against the killings of judges and journalists in his first privilege speech, he said that his fears had been proven with the unsolved killings of 112 leftist personalities, and an increasing number of judges and journalists. He stated that the Senate should craft the proper legislation to address these concerns. Senator Pimentel expressed support for Senator Gordon's cause.

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.

AP MS

TERMINATION OF THE PERIOD OF COMMITTEE AMENDMENTS

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

DRILON AMENDMENTS

As proposed by Senate President Drilon and accepted by the Sponsor, there being no objection, the Body approved the following amendments, one after the other:

1. Delete the word "or" on line 5; and the words "administrative" and "rules and regulations" on line 6; and between the words "orders" and "decrees," insert the word AND;
2. On the same page, between lines 12 and 13, insert a new Sections 3 and 4 to read as follows:

SEC. 3. PERSONS CONVICTED OF OFFENSES PUNISHED WITH *RECLUSION PERPETUA*, OR WHOSE SENTENCES WILL BE REDUCED TO *RECLUSION PERPETUA*, BY REASON OF THIS ACT, SHALL NOT BE ELIGIBLE FOR PAROLE UNDER ACT 4103, OTHERWISE KNOWN AS THE INDETERMINATE SENTENCE LAW, AS AMENDED,

Senate President Drilon explained that under the Indeterminate Sentence Law, only persons convicted of offenses punishable by death or life imprisonment are not eligible for parole.

SEC. 4. THE BOARD OF PARDONS AND PAROLE SHALL CAUSE THE PUBLICATION AT LEAST ONCE A WEEK FOR THREE CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION OF THE NAMES OF PERSONS CONVICTED OF OFFENSES PUNISHED WITH *RECLUSION PERPETUA* OR LIFE IMPRISONMENT BY REASON OF THIS ACT WHO ARE BEING CONSIDERED OR RECOMMENDED FOR COMMUTATION AND PARDON; *PROVIDED, HOWEVER*, THAT NOTHING HEREIN SHALL LIMIT THE POWER OF THE PRESIDENT TO GRANT EXECUTIVE CLEMENCY UNDER SECTION 19, ARTICLE VII OF THE CONSTITUTION.; and

Senate President Drilon pointed out that it is an accepted principle in constitutional law that the power of the President to grant commutations and pardons cannot be limited or qualified by legislation. However, he said that there is no provision in the Constitution that prohibits the publication of applications or recommendations by the Board of Pardons and Parole of those who seek executive clemency. In fact, he stated that the Board of Pardons and Parole, as a matter of administrative rule, publishes in a newspaper the names of those who are applying for executive clemency, to give those who are opposed to that executive clemency the opportunity to make their views known either to the President or to the Board of Pardons and Parole.

Senator Pimentel stated that *reclusion perpetua* is a penalty imposed for crimes that are defined in the Revised Penal Code while the sentence of life imprisonment is imposed on crimes that are defined by special laws, which are not found in the Revised Penal Code.

3. Renumber the following section accordingly; and on line 13, delete the words and figure "fifteen (15) days" to "immediately "

Furthermore, Senator Pimentel underscored that the repeal of the death penalty would have a retroactive effect as far as all cases pending execution under the present law are concerned.

TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS

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

APPROVAL OF SENATE BILL NO. 2254 ON SECOND READING

Submitted to a vote, there being no objection, Senate Bill No. 2254 was approved on Second Reading.

PRESIDENTIAL CERTIFICATION

Upon direction of the Chair, Secretary Yabes read the President's certification as to the necessity of the immediate enactment of Senate Bill No. 2254, to wit:

Y *Y*

MALACAÑAN PALACE
Manila

May 29, 2006

HON. FRANKLIN M. DRILON
Senate President
Philippine Senate
Pasay City

Dear Senate President Drilon:

Pursuant to the provisions of Article VI, Section 26(2) of the 1987 Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 2254, under Committee Report No. 72, entitled

**AN ACT ABOLISHING THE DEATH
PENALTY,**

to address the urgent need of abolishing death penalty as its imposition was shown to have not served its principal purpose of effectively deterring the commission of heinous crimes, to remedy the findings that death penalty is anti-poor as the underprivileged who cannot afford the services of competent counsels are oftentimes the ones convicted of death penalty, to correct the retrogressive effect of death penalty to public vengeance as it constitutes retributive and not rehabilitative justice as the opportunity of the offender to reform and be able to contribute to the good of society after serving out the sentence is foreclosed, and to conform with our international commitment of abolishing death penalty.

Best Wishes.

Very truly yours,

(Sgd.) Gloria Macapagal Arroyo

Cc: HON. JOSE C. DE VENECIA JR.
Speaker
House of Representatives
Quezon City

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:59 p.m.

RESUMPTION OF SESSION

At 4:59 p.m., the session was resumed.

**APPROVAL OF SENATE BILL NO. 2254
ON THIRD READING**

In view of the presidential certification, upon motion of Senator Pangilinan, there being no objection, the Body considered, on Third Reading, Senate Bill No. 2254.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, upon motion of Senator Pangilinan, there being no objection, Secretary Yabes read only the title of the bill, to wit:

**AN ACT ABOLISHING THE DEATH
PENALTY.**

Secretary Yabes called the roll for nominal voting.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

Angara	Gordon
Arroyo	Lacson
Biazon	Lim
Cayetano	Madrigal
Drilon	Pangilinan
Ejercito Estrada (L)	Pimentel
Enrile	Recto
Flavier	Roxas

Against

None

Abstention

Ejercito Estrada (J)

With 16 senators voting in favor, none against, and one abstention, the Chair declared Senate Bill No. 2254 approved on Third Reading.

MANIFESTATION OF SENATOR ARROYO

Senator Arroyo informed the Body that the House of Representatives has not enacted a bill abolishing the death penalty. He stated that in the Senate, measures on the abolition of the death penalty had already been introduced by Senators Pimentel, Osmeña, Villar and Recto even before President Arroyo thought of repealing the death penalty.

MB

He said that Senator Pangilinan authored a measure of the same nature during the 12th Congress. He expressed gratitude to Senator Pimentel for taking over the defense of the bill.

EXPLANATION OF VOTES

By Senator Ejercito Estrada (J)

Senator Ejercito Estrada (J) explained that he abstained because he is a co-accused in a plunder case which carries the penalty of death. He said that he had wanted to vote for the abolition of the death penalty, but his conscience dictated otherwise.

By Senator Cayetano

Senator Cayetano stated that she had voted for the measure despite the fact that she was very much aware of the plight of the victims of heinous crimes including somebody very close to her, Mr. Lauro Vizconde. She said that her late father, who was a staunch advocate of the fight for justice, had embraced the task of defending the poor who did not have the money to pay for the services of a lawyer. She stated that this was the same reason why she felt that it was not right to impose the death penalty if there is any iota of doubt that the individual might actually be innocent.

SPECIAL ORDER

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of Committee Report No. 78 on Senate Bill No. 2261 to the Calendar for Special Orders.

COMMITTEE REPORT NO. 78 ON SENATE BILL NO. 2261

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2261 (Committee Report No. 78), entitled

AN ACT AMENDING SECTIONS 24, 31,
34, 35 AND 110 OF THE NATIONAL
INTERNAL REVENUE CODE OF
1997, AS AMENDED, AND FOR
OTHER PURPOSES

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Pangilinan, only the title of the bill

was read without prejudice to the insertion of its full text into the Record of the Senate.

The Chair recognized Senator Recto for the sponsorship.

SPONSORSHIP SPEECH OF SENATOR RECTO

In sponsoring Senate Bill No. 2261, Senator Recto delivered the following speech:

Our complex tax laws have frustrated many a tax filers that not a few of them have probably said in exasperation that it will take an Einstein to make sense of it.

But even income tax returns had confounded Mr. Einstein. He famously remarked, "The hardest thing in the world to understand is the income tax. Preparing a tax return is too difficult for a mathematician. It takes a philosopher."

We have a tax code that favors those with the best accountants.

Consider this Byzantine maze:

At present, an individual taxpayer needs to consider seven tax rates, ranging from 5% to 32%.

Then he has to input seven civil status variables.

These 14 interweaving variables are in addition to the income variables (salaries or wages, sales, receipts), the business expense variables (a whole gamut of direct and indirect costs, and miscellaneous expenses), and non-taxable income variables (bonuses, productivity incentives, social security contributions, *de minimis* benefits).

After creating this quilt of deductions and exemptions, the taxpayer computes what he needs to pay not by using one percentage rate, but by adding a fixed amount to a percentage above the threshold.

In addition, the self-employed has to fastidiously compile receipts of expenses all year round. The tax return may contain a few pages. But its supporting papers would consume a forest of newsprint.

To top it all, in taxation not all men pay equal. Taxes of fixed-salary workers are computed along rigid lines. Wide latitude, on the other hand, is given to those who practice a trade or profession. In short, in the case of a government worker, as an example, or a compensation income-earner whose tax payments are withheld, it is compulsory taxation. In the case of businessmen

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and professionals, it is taxation by confession. No wonder the ITRs of businessmen and professionals are the most imaginative fiction written today.

The dictum, "The more difficult a tax is to pay, the more likely that it will not be paid," is quite evident on our record of income tax collections.

Government was unable to collect P163 billion in individual income tax from 2000 to 2004. Annually, the gap was P32.6 billion during this period.

Only 32% of the annual potential collection from individual tax is captured, and this came from the NTRC which made the study. Or to put it in another way, 68 centavos for every individual income tax peso escapes the net.

As to culprits, here they are: Compensation income earners accounted for P7.17 billion of the yearly tax loss, while P25.43 billion in loss can be attributed to businessmen, professionals and the self-employed.

But when NTRC used national accounts as reference, it came up with a startling discovery. The effective tax rate, or proportion of income that is paid in tax is less than 6% in the case of compensation earners and, hold our breath, less than 1% in the case of businessmen and professionals.

The skewed distribution of tax burden is also apparent if we dissect the composition of individual income tax payments. Last year, individual tax payments reached P112.68 billion. It made up 21% of the total BIR take of P535.08 billion.

Who shouldered most of the individual income tax payments? If we guessed it was the perfumed crowd, then we are wrong, for it was salaried men, the workers, the so-called "*amoy pawis*" who did.

The BIR data showed that the self-employed chipped in only P18.6 billion as compared to the hefty contribution of P94 billion by fixed-compensation earners.

The above shows the weakness of a tax system by confession: there is no professing of sins.

The NTRC gave many reasons as to why the level of tax avoidance is high, one of which is the complicated and truncated tax system. It has served as a deterrent to tax compliance.

Indeed, be it here or abroad, complexity breeds noncompliance. The problem with

"intoxication" is that it engenders tax amnesia which can only be cured by occasional tax amnesty.

But should tax forgiveness be the only way out of habitual tax evasion? The answer is "no." There is another way and that is to simplify our tax system to make it easier for the taxpayer to understand and to pay, and the withholding agent to understand, withhold and remit to the BIR.

The present honeycomb of tax exemptions has created nooks and crannies where tax cheats can hide. It has also deterred and discouraged even the most law-abiding citizen to come forward and pay his tax dues.

The time has come for us to consider a simple tax structure.

The Committee is proposing a 35% flat tax rate for both salaried and self-employed individuals, and those practicing their professions.

When this idea was first broached to some of our colleagues, their immediate reaction was of skepticism, if not outright rejection.

An explanation on the merits of the proposal soon cast away our doubts. Let me repeat them for the sake of the public.

To repeat, this bill proposes a standard exemption level of P144,000 to all individual taxpayers regardless of civil status. That is equivalent to P12,000 a month per taxpayer income earned. That means if one's basic pay is P12,000 a month, then he will no longer have to pay income taxes.

The 144,000 threshold replaces the P20,000 exemption for a single taxpayer, P25,000 for a head of family, P32,000 for a married individual, and an additional deduction of P8,000 for each qualified dependent child of up to four. A husband and wife, in effect, would have P288,000 exemption immediately.

Let me, however, point out at this juncture that the P144,000 covers only the basic salary.

In the computation of the taxable income, the following are not included: the mandatory government contributions such as GSIS, SSS, PhilHealth, and Pag-IBIG. Double taxation ensues when what is essentially a payroll tax, such as GSIS contributions, is taxed again. So this and the like are not taken in the taxable column.

A P144,000 no-tax zone will benefit the low- and middle-salaried income taxpayers.

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Nearly nine in 10 or 85% will have zero or reduced income tax. Of this, nearly seven in 10 of the present taxfilers will no longer pay an income tax.

Eighty-six percent of total salaried individual income taxpayers, or 2.44 million out of the 2.86 million today, will either be exempted from paying income tax or will have reduced income tax liabilities under this proposal.

These include 1,887,483 salaried taxpayers who will no longer have to pay income tax, or 66% of compensation income taxfilers.

Who are they? They are individuals belonging to the three lowest income brackets, earning average annual gross incomes of P60,000, P80,000 and P125,000, respectively.

Covered are all the minimum wage earners in the private sector, or those earning, in the case of Metro Manila, P325 a day.

At present, if you are single and you earn P2,000 a month, you still will have to fork over P200 a year to the taxman.

But under this proposal, even if your monthly income is six times that or P12,000 a month, it will be exempt from tax. Your pay envelope will carry this warning sign to the taxman: *Noli Me Tangere*.

The P144,000 tax exemption is for one individual. Hence, conjugal tax exemption is P288,000.

Using this no-tax threshold would mean that 50% of the national government workforce will no longer be paying income tax. They will be everyone in SG1 to SG10 brackets.

Now let us disaggregate this in terms of civil status. The number of taxpayers with no tax due under the proposal would be --

	Number	% of Taxpayer-type	% of Exempt to Total salaried Taxpayers
- Single	571,557	71.58%	20.02%
HOF	384,743	83.12%	13.47%
M-0	774,997	57.10%	27.14%
M-1	53,363	66.41%	1.87%
M-2	47,315	65.38%	1.66%
M-3	33,013	66.51%	1.16%
M-4	22,495	65.25%	0.79%

Some 549,328 individual salaried taxpayers, representing almost 20% of the total salaried taxpayers, will also have reduced income tax liability under the proposal.

I would like to walk you through a bracket-to-bracket tour of the implication of this tax proposal in order to dispel fears that this flat tax will flatten the middle class.

On the contrary, they will get relief.

For single taxpayers, they would be those earning average annual incomes ranging from P175,000 – P350,000. They number 185,324 taxpayers, representing 23.21% of total single taxpayers or 6.5% of total salaried taxpayers.

In terms of peso amounts, a single taxpayer earning P175,000 annual gross income, who is paying P25,650 today in income tax, will be liable to only P12,250 under the proposal. His tax is reduced by P13,400 or by more than 50%.

For head of the family taxpayers, they would be those earning average annual incomes of P175,000 to P250,000, numbering some 60,662 and representing 13.11% of all heads of the family taxpayers in the country.

For a married individual without dependent, they would be those earning average annual incomes of P175,000 to P250,000, numbering some 283,210 and representing 20.86% of married without dependents or 9.92% of all individual taxpayers.

For a married individual with one dependent, they would be those earning average annual incomes ranging from P175,000 – P250,000. They number 8,968, representing 11.16% of total single taxpayers or 0.31% of total salaried taxpayers.

For a married individual with two dependents, they would be those earning average annual incomes of P175,000. They number 4,916, representing 6.79% of total single taxpayers or 0.17% of total salaried taxpayers.

For a married individual with three dependents, they would be those earning average annual incomes of P175,000. They number 3,754, representing 7.56% of total single taxpayers or 0.13% of total salaried taxpayers.

For a married individual with four dependents, they would be those earning average annual incomes of P175,000. They number 2,503 representing 7.26% of total single taxpayers or 0.09% of total salaried taxpayers.

The population boom does not reflect on our tax data. Imagine, those with four kids account for only less than one percent of total number of taxfilers.

Only 14.66% of the 2.86 million salaried taxpayers or 418,739 will have higher income tax liabilities. They are the ones belonging to the higher middle up to the high income brackets.

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For example, a married individual with no dependent and who is earning an annual salary of P1 million is paying P258,760 in income tax today for an effective tax rate of only 25.8%.

With the proposal, he will be paying P283,500 in income tax or P24,740 more. His tax burden increases from 27.24% to 29.84% of his gross income.

If the same individual became ten-fold rich and is earning P10 million in annual income, he would be liable today for P2.83 million income tax at present but a much higher P3.10 million income tax under the proposal.

His tax burden increases from 31.50% to 34.46% of his gross income. Having the capacity to pay, this rich married individual is now asked to contribute a little more to government.

The above illustrations meet the progressivity yardstick that a tax system must embody.

In the case of the proposal at hand, we observed that the income tax liabilities likewise increase as incomes increase.

Let me give an example. If one's gross income is P150,000 and under the bill he has an exemption of P140,000, his net income is P10,000. At 35%, his tax liability is P3,500, his effective tax rate is only 2%. If one's income is P250,000 and he has an exemption of P140,000, his net income is P110,000 times the rate of 35%, a single tax rate, and his tax due is P38,500 for an effective tax rate of 15%. If one's income is P500,000 and he has the same exemption of P140,000, then his net income is P350,000 times 35%, and his tax due is P126,000 which is an effective tax rate of 26%. Now, if one's income is P1,000,000 minus his exemption of P140,000, his net income is P860,000 times 35%, and his tax due is P301,000 for an effective tax rate of 30%.

Although a flat tax rate is applied uniformly on net incomes across all income levels, the personal exemption, which is uniformly granted, is effectively a larger amount of relief to the smaller-income taxpayer than to a higher-income taxpayer.

As a result, a large amount of net income becomes taxable for the richer taxpayer than a poorer taxpayer. The exemption level mainly lends to the progressivity to the proposed income tax structure.

This progressivity standard is validated when applied to business income individuals.

First, income tax reliefs are to be expected for 20% of the total number of self-employed taxpayers or roughly 82,000 individuals.

They will either get a full tax relief or reduced income taxes.

On the other hand, the medium- and large-scale business income-earning individuals, having the greater capacity to earn, will be contributing more in terms of higher income taxes.

For instance, the effective tax burden of someone with gross revenues of P4 million will improve from 2.58% to 7.03%.

A self-employed earning over P10 million in gross revenues will have a heavier tax burden of 9.89% from 4.46%, or an improvement of more than 100%.

The proposal to reform the income taxation of the self-employed retains the deductibility of all legitimate business expenses, imposes a flat income tax, and amends the Optional Standard Deduction (OSD) rate and extends it to corporations as well.

These proposals, more or less, align the income taxation of the self-employed with that of corporations. This is sound policy because if we come to think of it, why should the same type of income, which is business income, be taxed differently if earned by a corporation and earned by an individual.

A feature of the proposal, though, gives a personal exemption to the self-employed individual which a corporation does not enjoy.

Allowing the deductibility of all legitimate expenses is a fair treatment of a business concern consistent with the principle of income taxation.

While it is recognized that certain business expenses are being abused, addressing this problem through a structural reform that intends to disallow their deductibility may not necessarily be the appropriate response.

If business deductions are being padded to bring down tax liability, this problem should be solved through intensive and sustained tax audits by the BIR.

However, changing the base of the OSD simplifies tax administration because the BIR will only have to focus on checking the veracity of gross revenues declared.

Under the current formula, the BIR would need to check each item falling under "costs of goods sold" or "costs of sales" which are required to be itemized, which would be laborious exercise.

The proposal simplifies the individual income tax structure in terms of tax rate and

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amount of exemption. A simple tax structure will be easier to administer and to comply with, including the withholding agents who withhold and remit to the BIR.

With only one tax rate, the income tax due will be easier to compute on the part of the taxpayer, and easier to check on the part of the tax administrator.

In terms of tax administration, often, the BIR cannot vary whether a taxpayer is actually single, head of the family or married or how many dependents.

The number of dependents claimed cannot likewise be verified, as I mentioned. Thus, these personal and additional deductions are prone to abuse.

Given a simpler structure, the BIR will now be able to focus its limited resources on validating lesser income tax variables. Its tax administration work could become more efficient.

But simplicity has its cost.

In terms of revenue implication, these proposals are estimated to result in foregone revenue of P13 billion. The House version would have foregone revenue of P15 billion to P16 billion which complicates even further the tax code.

Big but still small compared to the uptick caused by a higher and wider VAT.

But the foregone revenue can be recouped through the expected efficiency gain due to a simplified income tax structure.

In taxation, big gains can be effected by taking away the fine print.

We must not be afraid of revamping our tax system though we instinctively feel discomfort in anything unfamiliar.

We must take heed from what a learned jurist once said: "Tax statutes and regulations never have been static. Experience, changing needs, changing philosophies inevitably produce constant change in each."

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

Senator Roxas described the discussion on Senate Bill No. 2261 which seeks to increase the take-home pay of workers through an increase of allowable deductions as indeed timely and appropriate as he noted the presence of the 2006 TOWER awardees (The Outstanding Workers of the Philippines)

in the session hall. He said that the Rotary Club of Manila, sponsored and supported by Metrobank Foundation, annually searches for workers who have contributed to their firms through innovations or cost savings. He acknowledged the following awardees: manufacturing – Rollando Ballera (Philphos Corp.), Antonio Gimang (Toyota Corp.), Cristina Macadini and Brando Tulang (Amkor Technologies), Jerry Zaldua (Indophil); basic industries — Marcial Huerte (Mactan Generation), Deolindo Olipiendo (Del Monte Phils.); and services – German Anobling and Alexander Galang (Manila Water).

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2261

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

COMMITTEE REPORT NO. 13 ON SENATE BILL NO. 1936

(Continuation)

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

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

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

Thereupon, the Chair recognized Senator Angara, Sponsor of the measure, and Senator Pimentel, for his amendments.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:34 p.m.

RESUMPTION OF SESSION

At 5:37 p.m., the session was resumed.

PIMENTEL AMENDMENTS

On page 2, line 8, after the word "person," as proposed by Senator Pimentel and modified by the

16

Sponsor, there being no objection, the Body approved the insertion of the phrase INCLUDING LOCAL GOVERNMENT UNITS;

Senator Pimentel proposed the insertion of a new section on page 10, line 1 of the bill to read as follows:

SECTION 8. *APPLICATION FOR LOANS OF LOCAL GOVERNMENT UNITS* - THE APPLICATION FOR LOANS OF PROVINCES, CITIES, MUNICIPALITIES OR BARANGAYS AND THEIR FINANCIAL CONDITION SHALL NOT BE TREATED AS CONFIDENTIAL. THE DATA MAY BE SHARED UPON THE REQUEST OF THE OMBUDSMAN, THE SANDIGANBAYAN, AND OTHER COURTS OF LAW, THE DEPARTMENT OF JUSTICE, THE PUBLIC PROSECUTORS, THE PUBLIC DEFENDERS AND THE CONCERNED CONSTITUENTS OF THE LOCAL GOVERNMENT UNITS.

REQUEST FOR COPIES OF THE APPLICATION FOR LOANS AND THE STATE OF FINANCES OF LOCAL GOVERNMENT UNITS PENDING WITH THE CREDIT INFORMATION CORPORATION OR WITH ANY PRIVATE OR GOVERNMENT-OWNED OR -CONTROLLED BANKS OR FINANCIAL INSTITUTIONS SHALL BE ACTED UPON BY THE CORPORATION, THE BANKS OR FINANCIAL INSTITUTION CONCERNED WITHIN FIVE WORKING DAYS FROM SUBMISSION THEREOF. THE INFORMATION REQUESTED BY CONCERNED CONSTITUENTS OF THE LOCAL GOVERNMENT UNITS CONCERNED SHALL BE RELEASED UPON PAYMENT OF REASONABLE FEES. FAILURE TO RELEASE THE REQUESTED INFORMATION WILL SUBJECT THE OFFICIALS OF THE CORPORATION OR BANKS CONCERNED TO THE PENALTIES AS PROVIDED UNDER SECTION 10 HEREOF.

Senator Pimentel explained that the provision is intended to minimize, if not eradicate, abuses by certain local government officials who connive with the banks to allow them to borrow beyond their capacity to pay. He noted that as Senate President Drilon disclosed earlier, some LGUs have mortgaged their internal revenue allotments (IRA) for a period beyond their terms, which means that the succeeding local government officials would have no IRA.

Moreover, Senator Pimentel explained that based on experience, one of the ways resorted to by the LGUs was to ensure that the financial transactions were treated by banks as confidential. He pointed

out that since the money borrowed became public funds and were to be repaid with public funds, there is no way that such a transaction could be deemed as confidential unlike loan applications of private individuals. For his part, Senator Angara cited Section 6 which provides that credit information could be released upon a lawful court order.

However, Senator Pimentel maintained that there is a big difference between confidential deposits and loan applications of LGUs. Moreover, he said that his proposal seeks to correct a fairly widespread problem encountered by the LGUs, as exemplified by the experience of Isabela Governor Padaca who could no longer use the IRA for her province as this had already been hocked by the previous administration. In addition, he pointed out that it would be difficult for a constituent of a city, province, municipality or barangay to go to court to establish his right to have access to loan applications. He also stressed that confidentiality would not necessarily apply to an LGU that has applied for a loan or other financial assistance because the funds involved are public monies. He added that the constituents would not be able to object to the loan applications unless these matters are made known to them.

As proposed by Senator Pimentel and modified by the Sponsor, there being no objection, the Body approved the following amendments:

1. On page 6, line 25, insert the phrase *PROVIDED, HOWEVER, THAT IN CASE THE BORROWER IS A LOCAL GOVERNMENT UNIT (LGU), THE SPECIAL ACCESSING ENTITY MAY RELEASE CREDIT INFORMATION ON THE LGU UPON REQUEST AND PAYMENT OF REASONABLE FEES BY A CONSTITUENT OF THE CONCERNED LGU;*
2. On page 8, subject to style, reword lines 17 and 18 as follows:

AS REGARDS THE PERIOD OF TIME WITHIN WHICH THE CORPORATION OR SPECIAL ACCESSING ENTITY SHOULD ACT ON THE REQUEST FOR CREDIT INFORMATION, THIS WOULD HAVE TO BE INCLUDED IN THE IMPLEMENTING RULES AND REGULATIONS;
3. On page 10, line 14, add another proviso to read as follows:

PROVIDED FURTHER, THAT THE MONETARY BOARD MAY ISSUE SUBSEQUENT RULES CONSISTENT WITH THE

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RULES AND REGULATIONS APPROVED
BY THE CONGRESSIONAL OVERSIGHT
COMMITTEE.

INQUIRIES OF SENATOR ARROYO

Preliminarily, Senator Arroyo voiced his concern that the bill could violate several constitutional provisions, among them, Article II, Section 20 which states that, "The State recognizes the indispensable role of the private sector, encourages private enterprises and provides incentives to needed investments." He posited that under the bill, the government would be engaged in something that the private sector could do.

Asked why the private enterprises are not being encouraged to do the functions of the Central Credit Information Corporation, Senator Angara clarified that the bill would not discourage the private sector from continuing credit reporting or credit rating. He stated that the Corporation would only consolidate and centralize the credit information on borrowers who filled out applications and share them with the banking and lending communities. At present, he observed that while the banks and lending institutions are flushed with cash, they are reluctant to extend loans because of the high level of nonperforming assets and, basically, the lack of information on the creditworthiness of borrowers. The bill, he said, would help small- and medium-scale businesses to have an easier access to credit.

On whether private enterprises could not be allowed to do it with the necessary guidelines and support of government, Senator Angara replied that for almost 30 years, private credit reporting has not helped the banks and financial institutions. He believed that better information on borrowers would make the release of funds easier.

Senator Arroyo asserted that the bill also violates Section 19, Article XII of the Constitution, to wit: "The State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed." He pointed out that under the bill, no private enterprise could compete with the Corporation which is, in effect, a monopoly. He noted that Section 20 of the same article provides that the central monetary authority "shall provide policy direction in the areas of money, banking and credit. It shall have supervision over the operations of

banks and exercise such regulatory powers." He said that based on this provision, it is quite clear that the BSP role does not include credit information.

In response, Senator Angara argued that the Corporation is not a monopoly because the bill does not erect barriers against the entry of anyone into the credit information business, and Section 4(c) provides for a ceiling of 15% return on equity and a clear access policy. In practical terms, he said, it means that all credit rating and reporting agencies, most of which are private, can access the same data and add value to them. The reality in the banking system, he observed, is that banks hold on to credit information about their favorite clients for fear that they might be poached. He stated that private rating agencies cannot collate and consolidate all the information on a voluntary basis, hence, there is a need to put up the Corporation that shall enjoy the prestige and backing of the BSP. He reasoned that credit is one of the main functions of any central bank as credit dictates the level of inflation and the amount of money in circulation.

Senator Arroyo posited that the bill is intended to benefit the banking sector as he pointed out that while there is the Bankers Association of the Philippines that is supported by the BSP, borrowers are at the mercy of banks. Senator Angara stated that since 95% of the financing of businesses is through bank loans, one of the aims of the bill is to create a strong capital market. The idea, he said, is to make known the creditworthiness of a borrower to the banking and lending communities and enable them to assess the risk of lending to the individual.

Senator Angara stated that the kind of credit information available to the banks and lending institutions would widen the field of borrowing as microenterprises in the provinces that until now cannot access a bank, would have a chance to access the formal lending institution while corporations without collaterals would now have a private corporation rate their creditworthiness. He asserted that the bill, by all accounts, was intended to benefit the borrowers but if in the process it would help banks manage risks better, then that would be good for the banking system. He stressed that a sound banking system would be able to extend as much credit to as many people who need it.

Asked why the Body would help banks make a credit investigation when they could do it on

their own, Senator Angara explained that banks at present ask for all sorts of collateral; credit investigation adds to the cost of lending; and banks share negative, not positive, credit information. He said that all these add up to high interest rates and high cost of lending, whereas under the bill, credit information would be readily available.

Senator Arroyo conceded that lending could be easier and convenient with a database for every borrower. But he expressed concern that the Corporation is practically controlled by the BSP which is not really insulated from outside influence. He pointed out that a bank will accommodate a loan to a borrower who may be hostile to an administration but is friendly to the bank but a government-controlled credit information corporation will hold the levers which can be brought to bear on borrowers unfriendly to the government.

Asked by what authority the Senate should anoint a body which would decide whether one is entitled to a loan or not, Senator Angara replied that serving the interest of millions of borrowers is of the highest public interest because credit oils the wheels of the economy. But he clarified that the confidentiality of one's credit information is kept strictly unless one consents to its disclosure. He stressed that disclosure or nondisclosure is a choice that has a consequence so that if one is unwilling to disclose his creditworthiness, no bank will give him credit.

On the concern that a mayor hostile to the President would not be extended a loan since the Corporation would not risk the presidential ire, Senator Angara expressed the view that Senator Arroyo was lumping all banks as equivalent to a government banking institution. He explained that a subscriber to the system has his credit information available in the system but a bank is prohibited from disclosing it without his consent. He believed that private banks would not reject a loan to an extremely creditworthy town or province even if the mayor or governor is hostile to the government because these loans are highly profitable.

However, Senator Arroyo insisted that the Corporation is not a guarantee of a good system by which one could have access to credit because of the imperial role of the BSP which is under the Office of the President. He reiterated that a credit-worthy rival might not be granted a loan but a

creditworthless ally might be granted a behest loan. Senator Angara conceded that such a situation could happen in a government-owned or -controlled bank like Landbank or DBP but never in a private bank like Metrobank or RCBC to which the Corporation could only disclose the borrower's credit history but not influence its decision to lend.

Asked why the bill could not just establish a policy direction to the private sector to ensure fair competition, Senator Angara stressed that one of the most important goals of the national economy is to distribute opportunities equitably. He explained that the bill attempts to equalize the opportunities for accessing credit by providing comprehensive credit information on big corporations like San Miguel or Robinson's and on an obscure but talented entrepreneur from Aurora or Bicol.

Senator Arroyo contended that vesting the BSP with the power over credit was not fair as its only function under the Constitution is to provide policy direction. He suggested reformatting the bill to allow any private bank or lending institution to perform the role of a credit information corporation so that the borrower would have a choice instead of being compelled to provide information to only one government-sponsored corporation.

Senator Angara recalled that credit information was established in the '70s under the Central Bank which gave it to the private sector later. He said that the banks were not able to collect a comprehensive credit information on borrowers because submission was voluntary and banks mostly shared negative information to protect their good borrowers from being pirated by other banks. He stated that the present credit rating and credit information bureaus did not succeed in widening the borrowing field because of the limited access to credit information. With the bill, he explained that the prestige and influence of BSP would back up the Corporation so that submission of credit information would be mandatory in order to collect a comprehensive credit history.

Senator Angara explained that government has opted to bail out the private sector for the greater interest of the public. He said that the Central Bank may own 49% of the equity of the Corporation, but its control and management would be vested in the private sector investors.

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If there has been a failure on the part of the credit bureaus in the past, Senator Arroyo assumed that the most effective solution is for government to enact a law to support the private sector in putting up credit corporations or bureaus, and not to take over the function of the Credit Information Bureau which would make BSP the lord and master of money, and of banking and credit.

To Senator Angara's comment that this, precisely, is the banking principle, Senator Arroyo asserted that the BSP should provide only the policy direction. He averred that authorities would howl whenever the three international credit rating agencies—Moody's, Fitch and Standard and Poor's—rate the Philippines poorly; yet, in the Philippines, the only source of information is the Credit Information Bureau which is more or less controlled by the BSP; thus, if it gives the borrower a bad report, the borrower could not correct the information because there is no appeal process. He said that the Credit Information Bureau may be good for the banks but not for the borrowers.

Senator Angara stated that "credit rating" should not be confused with "credit report," as Senator Osmeña had made very clear in his series of amendments. He explained that credit rating is the analysis of one's credit standing and creditworthiness—as is the function of international credit raters like Moody's and Standard and Poor's—by gathering, consolidating and summarizing credit information that the borrower provides the credit rater and which it distributes to the subscribers and the existing private credit raters. He added that it would be to the advantage of the existing credit raters to have a source of credible and complete information because they can add value to it by studying the borrower's creditworthiness and supplementing it with additional information.

Asked why the field could not be opened to the private sector so that they could compete with each other, Senator Angara believed that if the BSP were not an equity holder in the private corporation, the banks would not submit the credit information of their borrowers; thus, there would be failure in achieving the overall goal of having a central repository of credit information that shall be made available to the banking and other lending institutions that would, in effect, facilitate lending, lower the cost of borrowing, and enable the small- and medium-scale entrepreneurs to have access to credit. Furthermore, he underscored the statutory and constitutional mandate of Central Bank as the sole authority over

banking and credit. He argued that laying down the policy on credit is tantamount to control of credit which is the centerpiece of banking, especially because inflation, money supply, cost of money, and other factors could be controlled through credit. He said that the country would not have a good credit standing unless it has a good credit system, including the underlying credit information on borrowers.

Asked why only one entity should be authorized to decide on one's credit standing without appeal, Senator Angara clarified that the bill would like to assure a borrower that he could question a negative credit information immediately, and it is the duty of the Corporation to correct the information immediately.

Senator Arroyo remarked that while the concept is not bad, Section 21, Article XII of the Constitution states that, "Foreign loans may only be incurred in accordance with law and the regulation of the monetary authority. Information on foreign loans obtained or guaranteed by the Government shall be made available to the public." Since foreign loans must have the approval of the Monetary Board even if contracted by the President, he said that all the powers would now be lodged in the BSP. He stated that during the discussions on the Special Purpose Asset Vehicle Act, it was revealed that the big volume of loans and nonperforming assets was caused by the failure of the banking system and not the lack of credit information. The bill, he observed, has weighed heavily against borrowers and in favor of the banks, because the latter can, through the Bankers Association of the Philippines, hold constant dialogues with the BSP. He stressed the need for medium-scale borrowers to have more access to credit, especially since the cost of examining a loan of a big-scale borrower and a small-scale borrower would be more or less the same.

Senator Arroyo noted that under the present setup, when the bank undertakes a credit investigation on the borrower, the latter is somehow comforted by the fact that, at least on paper, the lending bank will not share the information with others. He pointed out that under the bill, the information on the borrower shall be open to all banks.

Senator Angara averred that a borrower's credit information could not be made available to anyone without his consent. He pointed out that

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Senator Arroyo's position on granting the medium-scale borrowers wider access to credit is contrary to the bill's intention to benefit small- and medium-scale borrowers. He explained that the power of the small-scale borrowers should not be underestimated because small-scale enterprises create almost 90% of the jobs in the country, especially in the provinces. He reiterated that 95% of the enterprises in the country are bank-financed despite the fact that there are other modes of financing like issuing one's own bonds. He expressed hope that more borrowers would benefit as a result of the bill and a genuine capital market would be developed outside of the banking system.

Noting that the Constitution wisely says that government should not enter the domain of private enterprises, Senator Arroyo wondered why the function of providing credit information has to be concentrated into one government institution when it could be done by private enterprises. He pointed out that the trend has been to privatize government corporations but, apparently, the bill is taking a reverse course. He suggested that the bill be recrafted in such a way that would allow private enterprises to do what the Corporation is supposed to do and thereby not foreclose the opportunity of providing credit information to others.

Senator Angara argued that opening that function to just any private enterprise would be maintaining the status quo where banks and financial institutions selectively provide credit information. He argued that under the bill, the borrower would have greater and faster access to credit precisely because banks and financial institutions would be able to assess and manage the risks of lending to him based on his credit information without which, he would be required to submit more collaterals than required. He emphasized that the bill is just the beginning of the effort to strengthen the banking and lending communities which are awaiting its enactment into law.

To the observation that the borrower runs the risk of being blackballed because he has no recourse but to submit his credit information to the Corporation, Senator Angara clarified that the Corporation is obligated to rectify any mistake in the borrower's credit information. He stressed that the bill is the best recourse right now and the possibility of privatizing the Corporation is always there.

Asked whether using the Corporation would help the borrower get low interest rates, Senator Angara

stated that there is such a potential because the banks do not have to spend so much on credit investigation.

On whether the borrower's application with other banks would be prejudiced by his refusal to execute a waiver, Senator Angara replied that the credit information would remain confidential because the Corporation cannot release it without the consent of the borrower.

At this point, Senator Angara informed the Body that according to a World Bank study on countries that have credit bureaus, the efficiency of processing loans has increased by 43%.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 7:06 p.m.

RESUMPTION OF SESSION

At 7:09 p.m., the session was resumed.

TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS

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

APPROVAL OF SENATE BILL NO. 1936 ON SECOND READING

Submitted to a vote, there being no objection, Senate Bill No. 1936 was approved on Second Reading, without prejudice to its reconsideration.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1936

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

MANIFESTATION OF SENATOR VILLAR

Senator Pangilinan explained that Senator Villar was not present during the voting on Third Reading on Senate Bill No. 2254 as he was attending the bicameral conference on the General Appropriations Bill. Thereafter, Senator Pangilinan read the manifestation of Senator Villar on said bill, to wit:

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I would like to make a manifestation of my support for the Senate's approval of Senate Bill No. 2254, "An Act Abolishing the Death Penalty."

As much as I would have liked to participate in the voting on Third Reading, I was not able to do so because I was in the heat of discussions on the 2006 General Appropriations Act, a measure that we would also like to pass before the *sine die* adjournment of Congress.

As one of the principal authors of the measure abolishing the death penalty, I believe that death, as a penalty for crime, has no place in a society that claims to strongly uphold freedom and human rights.

The death penalty, aside from being an inhuman, cruel and degrading punishment, has never been proven to deter crime more effectively than other punishments. Worse, the penalty might even be imposed on the innocent.

Hence, it is but just to impose the penalty of *reclusion perpetua* or life imprisonment instead of the death penalty in cases where the law prescribes the death penalty.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 7:12 p.m.

RESUMPTION OF SESSION

At 7:14 p.m., the session was resumed.

NEXT DAY'S SCHEDULE

Senator Pangilinan informed the Body of the schedule for the next day's session, as agreed upon by the Members, to wit:

10:00 a.m. to 11:30a.m.	<i>Anti-Terrorism Bill (Senators Lacson and Revilla have reservations to interpellate on the measure)</i>
11:30 a.m. to 2:00 p.m.	<i>Biofuels Act BCDA Bill</i>
2.00 p.m. to 3:00 p.m.	<i>Automation Bill Adjournment</i>
5.00 p.m.	<i>Call To Order Biofuels Act BCDA Bill Automation Bill</i>

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 7:15 p.m.

RESUMPTION OF SESSION

At 7:16 p.m., the session was resumed.

SUSPENSION OF SESSION

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

It was 7:17 p.m.

RESUMPTION OF SESSION

At 11:17 a.m., Wednesday, June 7, the session was resumed with Senate President Drilon presiding.

COMMITTEE REPORT NO. 34 ON SENATE BILL NO. 2137

(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2137 (Committee Report No. 34), entitled

AN ACT TO DEFINE AND PUNISH THE
CRIME OF TERRORISM, THE CRIME
OF CONSPIRACY TO COMMIT
TERRORISM, AND THE CRIME OF
PROPOSAL TO COMMIT TERRORISM,
AND FOR OTHER PURPOSES.

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

The Chair recognized Senator Enrile, Sponsor of the measure, and Senator Pimentel for his interpellation.

INTERPELLATION OF SENATOR PIMENTEL

Asked by Senator Pimentel whether the terrorist acts enumerated in Section 3 of the bill are also covered by the Revised Penal Code and laws that define criminal activities, Senator Enrile replied in

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the affirmative, clarifying that if the assassination, for instance, of a high government official was accompanied by a demand for the government to do or not to do something, then it would be under the ambit of Section 3 and not considered an ordinary crime of murder under the Revised Penal Code. Similarly, he pointed out that in the case of kidnapping, if a group of children were kidnapped for ransom but there was no coercion of the government or a population for that matter, it would only be a case of ordinary kidnapping under the Revised Penal Code. He said that the same also applies to cases of arson, possession and use of explosives, and many other things.

Asked whether the said crimes are considered heinous and punishable by death under the Death Penalty Law, Senator Enrile replied that it would depend upon the aggravating circumstances which are not offset by the qualifying circumstances.

Senator Pimentel noted that, in reality, the bill is directed towards maintaining the processes of government and while the object of the terrorist act could be civilians, ultimately, the act would put pressure on government.

Asked if these acts are equivalent to *lèse majesté* that was instituted to protect the sovereign from the criticism of his subjects, Senator Enrile replied in the negative.

Since that particular act is already penalized under the Code, Senator Pimentel asked how the passage of the bill could be justified at this point just because it was accompanied by certain circumstances that qualify as an offense under the bill. He noted that since kidnapping and assassination are penalized with grave penalties, there is no longer a need to craft other laws to ensure the imposition of grave penalties. In response, Senator Enrile stated that if the purpose of the kidnapping or hijacking, for instance, is not to coerce or intimidate a government or a populace or a political authority, it is not covered by the provision of the Act; but if the purpose of the act of killing, bombing, hijacking, or committing destruction is to compel an indirect primary target, like the government or a political authority or a population, to perform or not to perform an act demanded by the perpetrator, then it is covered by this Act.

Asked why people who commit these acts could not be charged with rebellion or insurrection, Senator

Enrile replied that the phenomenon of terrorism in this age has attained a magnitude that requires a greater use of formerly unauthorized techniques of criminal prevention and criminal suppression.

Senator Pimentel noted that the bill speaks of motives which are in the hearts and minds of people, but not of techniques which are something else because they can use the latest technologies available. He observed that there is an element that cannot be verbalized in the anti-terrorism bills all over the world and that is the connivance with foreign elements. He proposed that the element of foreign connivance or conspiracy with foreign terrorists be made part and parcel of the description of the acts being proscribed to differentiate them from the criminal activities within the purview of the Revised Penal Code.

Senator Enrile stated that in crafting his version of the Anti-Terrorism Law, he studied the history of terrorism and he learned that there are situations where terrorism happens internally, like in Macedonia and Armenia where it was waged against the Turks or in old Palestine where it was waged against the British. He said that if it is an internal insurgency like what the MILF and the CPP/NPA are pursuing and there is no use of the instruments of terrorism enumerated in the definition, the insurgents would not be considered terrorists; but the moment they use hostageing, hijacking, kidnapping, and make a demand, as part of their tactics, to gain momentary propaganda value for themselves, then they would fall under the definition.

Senator Pimentel stated that diminishing the powers of government is already covered in the Revised Penal Code and falls under the purview of insurrection where the objective, among others, is to diminish the jurisdiction of government over certain areas of the country, and maybe, the distinguishing element is the presence or the complicity of foreign elements which would make it completely different from crimes under existing laws.

Senator Enrile expressed openness to consider suggestions to make the law clear and tight enough so that it would not become an instrument of oppression. He stressed the need to be careful in clarifying the concepts to be introduced as criminal acts. He underscored the cardinal principle of criminal law that an act without a criminal intent is not punishable. He stated that with the help of Senator Pimentel, the Committee could write a better law.

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providing for all possibilities that are confined within controllable limits.

Senator Pimentel commended Senator Enrile for the assurance that the Committee was trying to craft a law that not only addresses the problem of terrorism, especially the concerns of the United States, but also protects the fundamental rights of the people. He acknowledged that Senator Enrile has tried hard to put safeguards in the bill and the many ideas coming out during the debates could do it some good. He hoped that the language of the bill could be refined so that it does not end up covering crimes that already fall within the ambit of the Code, or increasing their penalties.

In response, Senator Enrile stated that he would consider a proposal to include the element of foreign participation in the commission of the crime of terrorism as he observed that all the insurgency movements in the Philippines, except the *Katipunán*, had an element of foreign influence. He cited Aguinaldo who was reported to have met American officials in Hong Kong before he launched the revolution against Spain; and the CPP-NPA which has been influenced, funded and armed through these years by foreign communist states or communist organizations. He stated that even today's global terrorism has links to Al Qaeda and its religious theme has its beginnings in the 11th century. He stated that if the act was confined to the country and carried out by Filipinos who wanted to supplant the government, the latter would not be considered terrorists under the bill.

To the observation that the U.S. Constitution has a proviso that the right of the people to bear arms shall not be infringed which is not found in the Philippine Constitution, Senator Enrile emphasized that the bill is not intended to destroy the revolutionary spirit of the Filipino people because only time will tell when they might need to exercise the right to remove an oppressive government.

On whether a sunset provision could be included in the bill, Senator Enrile stated that it could be done, depending on the assessment of the global situation by the country's security agencies. He noted that the situation could improve a decade or two but the extension of the sunset provision must be done through an act of Congress. He pointed out that even the proclamation of martial law is limited to the suspension of the writ of *habeas corpus* and Congress may extend or suspend it.

Asked whether the bill identifies all the possible electronic devices that could be used for surveillance, Senator Enrile replied that it could be provided for in the bill and subject to the limitations that the Body may wish to impose.

On the observation that the laws of the land are written in English which is not understandable to all Filipinos, hence, the need for simplicity in the language of the bill, Senator Enrile stated that the Body could provide for the manner of the commission of the acts as well as their magnitude to distinguish acts of terrorism from ordinary criminal acts.

As regards the arrest of a suspect, Senator Pimentel posited that the greatest danger to his security is the period from his arrest to his surrender to a judicial authority during which he could be tortured or executed or simply vanished. He proposed that the bill impose a primary obligation on the arresting officer to produce the body of the suspect before he is brought to his place of detention. Senator Enrile agreed, stating that the proposed Act could require an arresting officer to keep a very precise record of when the arrest was made, who executed the arrest, who handled the suspect after his arrest, and all such pertinent matters up to his entry into custodial safekeeping.

Senator Pimentel clarified that more than a record, he wanted to ensure that the first duty of the arresting officer is to report to a judicial authority to precisely avoid the excesses being committed by other countries in their fight against terrorism. Senator Enrile stated that the arresting officer could be required to immediately report to the Commission on Human Rights or the Anti-Terrorism Council or the court that ordered the surveillance.

Further, Senator Pimentel proposed that a government doctor be assigned to the judicial authority to examine the suspect and determine his medical condition. Senator Enrile agreed as he noted that this would prevent the suspect from accusing the arresting officer of manhandling him, a common tactic that is resorted to by terrorists in order to raise a defense.

Senator Pimentel manifested that he would prepare his proposals and introduce them at the proper time.

Senator Enrile agreed that the nation's experience relative to the mishandling of criminal suspects must be inputted in the crafting of the legislation.



Senator Pimentel recalled that during martial law, a warrant of arrest was served each time he was arrested and his family was told why he was arrested and where he would be brought, unlike the present practice of masked men without IDs barging into private homes and manhandling citizens. Stating that he wanted to foreclose such danger, he reiterated that certain acts of surveillance allowed under the bill must be precisely defined such as "trap and trace authority." He believed that people must be forewarned of the things that could be done legally under the Act.

Senator Enrile informed the Body that his original formulation was refined by additional provisions. He explained that the bill contemplates a greater leeway for security forces to surveil, eavesdrop and intercept information with every known device available under the supervision and control of the court. He agreed that an enumeration of what these devices are and the definition of "proscription" would make the provisions more easily understandable.

Senator Pimentel insisted that the prohibitions against abuse must be applicable not only to citizens but also to alien residents of the country. He recalled that in the aftermath of 9/11, the U.S. security forces made sweeping arrests, especially of people with alien-sounding names who were denied equal protection under the U.S. Constitution. Senator Enrile expressed willingness to accept an amendment, at the proper time, that would ensure equal protection of the law to whoever is found within the territorial limits of the Philippines.

REMARKS OF SENATOR PANGILINAN

Senator Pangilinan stated that Senator Lacson would interpellate on the measure in the afternoon's session.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2137

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 12:02 p.m.

RESUMPTION OF SESSION

At 12:03 p.m., the session was resumed.

COMMITTEE REPORT NO. 47 ON HOUSE BILL NO. 2478 (Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of House Bill No. 2478 (Committee Report No. 47), entitled

AN ACT GRANTING THE RADIO MARIA FOUNDATION, INC. A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN FOR RELIGIOUS AND NON-COMMERCIAL PURPOSES RADIO BROADCASTING STATIONS IN THE PHILIPPINES.

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

TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS

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

APPROVAL OF HOUSE BILL NO. 2478 ON SECOND READING


Submitted to a vote, and there being no objection, House Bill No. 2478 was approved on Second Reading.

SUSPENSION OF CONSIDERATION OF HOUSE BILL NO. 2478

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 12:04 p.m. 

RESUMPTION OF SESSION

At 12:05 p.m., the session was resumed.

ADDITIONAL REFERENCE OF BUSINESS

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

**MESSAGES FROM THE
HOUSE OF REPRESENTATIVES**

Letter from the Secretary General of the House of Representatives, *informing the Senate that on June 6, 2006, the House of Representatives passed House Bill No. 4826, entitled*

**AN ACT PROHIBITING THE IMPOSITION
OF DEATH PENALTY IN THE
PHILIPPINES,**

in which it requested the concurrence of the Senate.

To the Committee on Rules

Letter from the Secretary General of the House of Representatives, *informing the Senate that on June 6, 2006, the House of Representatives requested a conference and designated Representatives Lagman, Baterina, Villafuerte, Lacson, Kintanar, Mitra and Defensor, on the part of the Majority, and Representatives Asistio, Aguja, Rosales and Ocampo, on the part of the Minority, as its conferees to the Bicameral Conference Committee on the disagreeing provisions of House Bill No. 4826, entitled*

**AN ACT PROHIBITING THE IMPOSITION
OF DEATH PENALTY IN THE
PHILIPPINES,**

and Senate Bill No. 2254, entitled

AN ACT ABOLISHING DEATH PENALTY.

To the Committee on Rules

BILL ON FIRST READING

Senate Bill No. 2262, entitled

**AN ACT DECLARING NOVEMBER 20
OF EVERY YEAR A SPECIAL NON-**

**WORKING HOLIDAY TO BE KNOWN
AS NATIONAL CHILDREN'S DAY**

Introduced by Senator "Compañera" Pia S. Cayetano

**To the Committee on Constitutional
Amendments, Revision of Codes and Laws**

RESOLUTIONS

Proposed Senate Resolution No. 490, entitled

**RESOLUTION DIRECTING THE
COMMITTEE ON LOCAL GOVERN-
MENT TO CONDUCT AN INQUIRY,
IN AID OF LEGISLATION, ON THE
DEVELOPMENT AND USE OF THE
LOTS VACATED BY THE JOSE ABAD
SANTOS HIGH SCHOOL AND THE
RAJA SOLIMAN SCHOOL LOCATED
IN BINONDO, MANILA FOR NON-
EDUCATIONAL AND COMMERCIAL
PURPOSES, WITH THE END IN VIEW
OF RECOMMENDING APPROPRIATE
REMEDIAL LEGISLATION**

Introduced by Senators M.A. Madrigal and Lim

**To the Committees on Local Government;
and Education, Arts and Culture**

Proposed Senate Resolution No. 491, entitled

**RESOLUTION DIRECTING THE APPRO-
PRIATE COMMITTEE TO INQUIRE,
LOOK INTO, AND INVESTIGATE,
IN AID OF LEGISLATION, THE
ALLEGED ANOMALY IN THE
BIDDING PROCESS AND AWARD
OF CONTRACT FOR THE IMPROVE-
MENT OF THE FACILITIES
OF MIMOSA LEISURE ESTATE
IN CLARK FIELD, PAMPANGA
CONDUCTED BY CLARK DEVELOP-
MENT CORPORATION WITH THE
END IN VIEW OF DETERMINING
WHETHER CERTAIN INDIVIDUALS
BENEFITED FROM THE BIDDING
PROCESS THUS PUTTING THE
GOVERNMENT IN A DISADVAN-
TEGIOUS POSITION**

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Introduced by Senator Manuel "Lito" M. Lapid

To the Committees on Accountability of Public Officers and Investigations; and Government Corporations and Public Enterprises

Proposed Senate Resolution No. 492, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON NATIONAL DEFENSE AND SECURITY TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, ON THE REPORTED UNAUTHORIZED DEDUCTIONS IMPOSED BY THE ARMED FORCES OF THE PHILIPPINES (AFP) FROM THE MONTHLY SALARY OF THE MEMBERS OF THE FILIPINO CONTINGENT TO THE UNITED NATIONS PEACE-KEEPING FORCES

Introduced by Senator Jinggoy Ejercito Estrada

To the Committee on National Defense and Security

COMMUNICATIONS

Letter from General Generoso S. Senga, AFP, dated 23 May 2006, presenting to the Senate the AFP Modernization Program Annual Report for CY 2005.

To the Committees on National Defense and Security; and Finance

Letter from OIC Armando L. Suratos of the *Bangko Sentral ng Pilipinas*, dated 29 May 2006, submitting to the Senate the 2005 Report on the Implementation of Republic Act No. 7721 (An Act Liberalizing the Entry and Scope of Operations of Foreign Banks in the Philippines and for Other Purposes), pursuant to Section 13 of Republic Act No. 7721.

To the Committee on Banks, Financial Institutions and Currencies

COMMITTEE REPORT

Committee Report No. 79, prepared and submitted jointly by the Committees on Trade and

Commerce; and Health and Demography, on Senate Bill No. 2263 with Senators Mar Roxas and "Compañera" Pia S. Cayetano as authors thereof, entitled

AN ACT TO MAKE THE LAWS ON PATENTS, TRADENAMES AND TRADEMARKS MORE RESPONSIVE TO THE HEALTH CARE NEEDS OF THE FILIPINO PEOPLE BY CLARIFYING NON-PATENTABLE INVENTIONS, ALLOWING THE IMPORTATION AND EARLY DEVELOPMENT OF PATENTED MEDICINES, AND MODIFYING GOVERNMENT USE PROVISIONS FOR DRUGS OR MEDICINES, TO LOWER PRICES AND INCREASE ACCESS TO AND SUPPLY OF QUALITY DRUGS OR MEDICINES, AMENDING FOR THIS PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8293 OTHERWISE KNOWN AS THE INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES,

recommending its approval in substitution of Senate Bill No. 2139.

Sponsors: Senators Mar Roxas and "Compañera" Pia S. Cayetano

To the Calendar for Ordinary Business

SUSPENSION OF SESSION

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

It was 12:06 p.m.

RESUMPTION OF SESSION

At 12:07 p.m., the session was resumed.

CONFERENCE COMMITTEE ON SENATE BILL NO. 2254 AND HOUSE BILL NO. 4826

Upon motion of Senator Pangilinan, there being no objection, the Chair designated Senator Arroyo as chairman, and Senator Pangilinan, representing the Majority, and Senator Pimentel, representing the Minority, as members of the Senate panel in the

100

Bicameral Conference Committee to meet with their House counterparts on the disagreeing provisions of Senate Bill No. 2254 and House Bill No. 4826.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 12:12 p.m.

RESUMPTION OF SESSION

At 12:13 p.m., the session was resumed.

AFTERNOON AGENDA

Senator Pangilinan announced that the session would be suspended at lunchtime to resume at 1:30 p.m., during which the Body would take up the Biofuels Bill, BCDA Bill, Automation Bill and Credit Information System Bill. He said that the session would be adjourned at 3:00 p.m. and at 5:00 p.m., the session would be called to order and a roll call would be conducted.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended until 1:30 p.m.

It was 12:14 p.m.

RESUMPTION OF SESSION

At 3:37 p.m., the session was resumed with Senate President Drilon presiding.

MANIFESTATION OF SENATOR PANGILINAN

Senator Pangilinan said that after conferring with Senate President Drilon and Senator Pimentel, it was agreed that after the reading of the Second Additional Reference of Business, the session would be adjourned until five o'clock in the afternoon.

SECOND ADDITIONAL REFERENCE OF BUSINESS

The Deputy Secretary for Legislation read the following matters and the Chair made the corresponding referrals:

MESSAGES OF THE PRESIDENT OF THE PHILIPPINES

Letters of Her Excellency, President Gloria Macapagal Arroyo, both dated June 6, 2006, certifying to the necessity of the immediate enactment of the following Senate bills, pursuant to the provisions of Article VI, Section 26(2) of the 1987 Constitution:

Senate Bill No. 2259, entitled

AN ACT DECLARING A ONE-TIME AMNESTY OF CERTAIN TAX AND DUTY LIABILITIES, INCLUSIVE OF FEES, FINES, PENALTIES, INTERESTS AND OTHER ADDITIONS THERETO, INCURRED BY CERTAIN BUSINESS ENTERPRISES OPERATING WITHIN THE SPECIAL ECONOMIC ZONES AND FREEPORTS CREATED UNDER EXECUTIVE ORDER NO. 80, SERIES OF 1993; PROCLAMATION NO. 216, SERIES OF 1993; PROCLAMATION NO. 420, SERIES OF 1994; AND PROCLAMATION NO. 984; SERIES OF 1997, PURSUANT TO SECTION 15 OF REPUBLIC ACT NO. 7227, AS AMENDED, AND FOR OTHER PURPOSES,

to avert a public emergency situation arising as a consequence of a projected pull-out by investors-locators from certain special economic and freeport zones around the country, and its immediate detrimental impact on government's employment generation campaign, owing to separate ruling of the Supreme Court denying them of tax and duty incentives otherwise exclusively granted to businesses and enterprises operating within the Subic Special Economic and Freeport Zone in accordance with Section 12 of Republic Act No. 7227;

and Senate Bill No. 2260, entitled

AN ACT AMENDING REPUBLIC ACT NO. 7227, AS AMENDED, OTHERWISE KNOWN AS THE BASES CONVERSION DEVELOPMENT ACT OF 1992, AND FOR OTHER PURPOSES.

to meet a public emergency particularly of the urgent need to enhance the country's

competitiveness in the foreign direct investments market consistent with national development objectives while correcting disparities in the fiscal incentives granted to duly registered business enterprises within the special economic zones.

To the Committee on Rules

BILLS ON FIRST READING

Senate Bill No. 2264, entitled

AN ACT INCREASING THE PENALTY OF IMPRISONMENT FOR ABORTION PRACTICED BY PHYSICIANS, MIDWIVES, INCLUDING NURSES AND THE ACCESSORY PENALTY THEREFOR TO PERPETUAL LOSS OF LICENSE TO PRACTICE PROFESSION AND FOR OTHER PURPOSES

Introduced by Senator Manny Villar

To the Committees on Constitutional Amendments, Revision of Codes and Laws; and Youth, Women and Family Relations

Senate Bill No. 2265, entitled

AN ACT TO REGULATE CREDIT CARD ADVERTISING, PROVIDING PENALTIES FOR VIOLATION THEREOF AND FOR OTHER PURPOSES

Introduced by Senator Manny Villar

To the Committees on Trade and Commerce; and Justice and Human Rights

Senate Bill No. 2266, entitled

AN ACT TO ENSURE THE FAIR AND EQUAL TREATMENT OF PRISONERS, AMENDING FOR THAT PURPOSE ARTICLES 39, 94, 97, AND 99 OF ACT NO. 3815, AS AMENDED, THE REVISED PENAL CODE, AND FOR OTHER PURPOSES

Introduced by Senator Manny Villar

To the Committees on Justice and Human Rights; and Public Order and Illegal Drugs

Senate Bill No. 2267, entitled

AN ACT CRIMINALIZING NECROPHILIA OR CARNAL KNOWLEDGE WITH THE DEAD AND IMPOSING APPROPRIATE PENALTIES THEREOF, INCORPORATING FOR THIS PURPOSE ARTICLE 335-A INTO ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE

Introduced by Senator Manny Villar

To the Committee on Justice and Human Rights

PARLIAMENTARY INQUIRY OF SENATOR ROXAS

Considering that some senators could not be on standby for the roll call because they have other official functions to attend to, Senator Roxas asked how the Journal would register the attendance of a Member who arrived before the roll call but was not in the hall when the roll was called.

Senator Pangilinan said that by tradition and pursuant to the Rules, a Member should be present for the roll call, otherwise, he would be considered as either "absent" or "arrived after the roll call."

Asked whether the Journal could also reflect that he or any senator "arrived before the roll call" for purposes of attendance, Senator Pangilinan stated that Senator Roxas would be marked "present" for this particular session day since it is just a continuation of yesterday's session.

Senator Roxas requested that the Committee on Rules take up the matter as it would be unfair to some senators, who arrived for the day's session but were not around at the time of the roll call, to be marked absent or late.

The Chair referred the request of Senator Roxas to the Committee on Rules for further clarification.

ANNOUNCEMENT OF SENATOR PANGILINAN

Senator Pangilinan announced that the session would convene at five o'clock in the afternoon after which, the roll would be called, thus, a quorum would be needed.

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The Chair manifested that some certified bills are also scheduled for approval on Third Reading.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

The Chair acknowledged the presence of the following: interns of the Congressional Internship Program for Young Muslim Leaders headed by Abdul Hamid Alawi and the program coordinator, Ferdinand Cuellos; officers of the Clark Investors and Locators Association—Francisco Villanueva, Jenny del Rosario, Dennis Uy, Jojo Abrohena and Steven Amoroso; and Mayor Noel Rosal of Legaspi City.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 3:48 p.m.


RESUMPTION OF SESSION

At 3:49 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 five o'clock in the afternoon of the same day.

It was 3.49 p.m.


OSCAR G. YABES
Secretary of the Senate
llw *S* *PO* *AV*

Approved on July 26, 2006