



**REPUBLIC OF THE PHILIPPINES**

**S e n a t e**

**Pasay City**

# **Journal**

**SESSION NO. 50**

Monday, February 4, 2008

**FOURTEENTH CONGRESS  
FIRST REGULAR SESSION**

**SESSION NO. 50**  
Monday, February 4, 2008

**CALL TO ORDER**

At 3:39 p.m., the Senate President, Hon. Manny Villar, called the session to order.

**PRAYER**

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

Ama naming makapangyarihan sa lahat, Kayo Po lamang ang alam naming makakatulong upang ang mga isipan at damdamin ng Inyong mambabatas ay magliwanag, upang makapag-akda ng mga batas na tutulong sa paghihirap ng aming mga kababayan at ng aming bansa.

Nawa'y pag-isahin Po Ninyo kaming lahat upang pawang mga ikabubuti ng bayan ang aming isa-isip at sa Inyong patnubay ay isa-una naming lahat ang pagtutulungan, paki-kipagkapwa at pagmamahalan.

Sa Inyong mapagpalang kamay, kami Po ay nananalangin na kami ay Inyong patnubayan sa lahat ng oras. Huwag N'yo Pong hayaan na ang bansang ito ay mapasakamay ng mga mapagsamantalang tao na ang iniisip ay sariling kapakanan lamang.

Gabayan N'yo Po kami tuwina at kalakip nito ang aming pasasalamat.

Hinihiling naming ang lahat ng Inyong biyaya mula kay Kristo na aming Panginoon.

Amen.

**NATIONAL ANTHEM**

The Senate Choir led the singing of the National Anthem and thereafter rendered the song entitled, *Hilumin*.

**ROLL CALL**

Upon direction of the Chair, the Secretary of the Senate, Emma Lirio-Reyes, called the roll, to which the following senators responded:

Angara, E. J.	Lacson, P. M.
Aquino III, B. S. C.	Lapid, M. L. M.
Arroyo, J. P.	Legarda, L.
Cayetano, A. P. C. S.	Madrigal, M. A.
Cayetano, C. P. S.	Pangilinan, F. N.
Defensor Santiago, M.	Pimentel Jr., A. Q.
Ejercito Estrada, J.	Revilla Jr., R. B.
Escudero, F. J. G.	Villar, M.
Honasan, G. B.	Zubiri, J. M. F.

With 18 senators present, the Chair declared the presence of a quorum.

Senator Enrile arrived after the roll call.

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

Senator Roxas was on official mission.

Senator Biazon was absent.

Senator Trillanes was unable to attend the session.

**APPROVAL OF THE JOURNAL**

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 49 and considered it approved.

**REFERENCE OF BUSINESS**

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

*MS*

**MESSAGES FROM THE  
HOUSE OF REPRESENTATIVES**

Letter from the Secretary General of the House of Representatives, informing the Senate that on 28 January 2008, the House of Representatives elected Representative Gullas as additional conferee to the Bicameral Conference Committee on the disagreeing votes on House Bill No. 2454, entitled

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

**To the Archives**

Letter from the Secretary General of the House of Representatives, informing the Senate that on 28 January 2008, the House of Representatives approved the Bicameral Conference Committee Report on the disagreeing votes on House Bill No. 2454, entitled

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

**To the Archives**

**BILLS ON FIRST READING**

Senate Bill No. 2040, entitled

AN ACT PROVIDING FOR PROTECTION, SECURITY AND BENEFITS OF WHISTLEBLOWERS AND FOR OTHER PURPOSES

Introduced by Senator Lacson

**To the Committees on Justice and Human Rights; and Finance**

Senate Bill No. 2041, entitled

AN ACT TRANSFERRING THE ORGANIZATION, OPERATION AND MANAGEMENT OF THE METRO MANILA FILM FESTIVAL FROM THE METRO MANILA DEVELOPMENT AUTHORITY TO THE MOVIE WORKERS WELFARE FOUNDATION (MOWELFUND), AND PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito Estrada

**To the Committees on Public Information and Mass Media; Education, Arts and Culture; and Finance**

**RESOLUTION**

Proposed Senate Resolution No. 286, entitled

RESOLUTION GIVING CONSENT TO AMBASSADOR HILARIO G. DAVIDE, JR., PERMANENT REPRESENTATIVE OF THE REPUBLIC OF THE PHILIPPINES TO THE UNITED NATIONS, TO ACCEPT THE PAPAL AWARD OF THE KNIGHT OF THE GRAND CROSS OF THE ORDER OF ST. SYLVESTER AWARDED TO HIM BY THE HOLY SEE

Introduced by Senator Manny Villar

**To the Committee on Foreign Relations**

**COMMUNICATION**

Letter from Atty. Juan S. Baun Jr., VP for Administration of the Manila Jockey Club, Inc., dated 29 January 2008, submitting to the Senate copies of the annual report of the Manila Jockey Club, Inc., in compliance with the terms and conditions as provided for under Republic Act No. 8407.

**To the Committees on Public Services; and Games, Amusement and Sports**

*js*

**ADDITIONAL REFERENCE OF BUSINESS**

**BILLS ON FIRST READING**

Senate Bill No. 2042, entitled

AN ACT TO REGULATE AND MODERNIZE THE PRACTICE OF INTERIOR DESIGN IN THE PHILIPPINES, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 8534, OTHERWISE KNOWN AS "THE PHILIPPINE INTERIOR DESIGN ACT OF 1998," APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Juan Miguel F. Zubiri

**To the Committees on Civil Service and Government Reorganization; and Finance**

Senate Bill No. 2043, entitled

AN ACT TO PROHIBIT EMPLOYERS, LABOR CONTRACTORS AND LABOR ORGANIZATIONS FROM DISCRIMINATING AGAINST ANY INDIVIDUAL BECAUSE OF AGE

Introduced by Senator Mirian Defensor Santiago

**To the Committee on Labor, Employment and Human Resources Development**

**RESOLUTION**

Proposed Senate Resolution No. 287, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON WAYS AND MEANS TO LOOK INTO THE TAXES WHICH THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR), ITS LICENSEES, PARTNERS, AGENTS AND ASSIGNS SHOULD BE REMITTING TO THE BUREAU OF INTERNAL REVENUE (BIR), WITH THE END IN VIEW OF ENACTING LEGISLATIVE MEASURES TO DEVELOP AND IMPROVE TAX COLLECTION AND ADMINISTRATION

Introduced by Senator Francis "Chiz" G. Escudero

**To the Committee on Ways and Means**

**APPROVAL OF SENATE BILL NO. 1710 ON THIRD READING**

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Third Reading, Senate Bill No. 1710, printed copies of which were distributed to the senators on January 29, 2008.

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

AN ACT LIMITING THE REAPPOINTMENT OF A REGULAR MEMBER OF THE JUDICIAL AND BAR COUNCIL (JBC) WHO HAS ALREADY SERVED THE FULL TERM.

Secretary Reyes called the roll for nominal voting.

**RESULT OF THE VOTING**

The result of the voting was as follows:

*In favor*

- |                   |            |
|-------------------|------------|
| Angara            | Lapid      |
| Aquino            | Legarda    |
| Cayetano (A)      | Madrigal   |
| Cayetano (P)      | Pangilinan |
| Defensor Santiago | Pimentel   |
| Ejercito Estrada  | Revilla    |
| Escudero          | Villar     |
| Honasan           | Zubiri     |
| Lacson            |            |

*Against*

None

*Abstention*

None

With 17 senators voting in favor, none against and no abstention, the Chair declared Senate Bill No. 1710 approved on Third Reading.

*AS*  
*170*

**COMMITTEE REPORT NO. 27  
ON SENATE BILL NO. 1966**

(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1966 (Committee Report No. 27), entitled

AN ACT AMENDING SECTION 6 OF REPUBLIC ACT NO. 1379, OTHERWISE KNOWN AS THE FORFEITURE LAW, TO PROVIDE A FIXED PERCENTAGE OF THE VALUE OF FORFEITED PROPERTIES IN CORRUPTION CASES AS ADDITIONAL FUNDING FOR THE OFFICE OF THE OMBUDSMAN AND FOR OTHER PURPOSES.

Senator Pangilinan stated that the parliamentary status was the period of interpellations. He said that Senators Defensor Santiago, Enrile and Angara have manifested their desire to interpellate on the measure.

Thereupon, the Chair recognized Senator Escudero, Sponsor of the measure, and Senator Defensor Santiago for her interpellation.

**INTERPELLATION  
OF SENATOR DEFENSOR SANTIAGO**

At the outset, Senator Defensor Santiago stated the points that she would present are purely legal, and are best framed not in the form of questions but in the form of a short treatise, as follows:

This bill that faces us seems to be very, very simple. It simply seeks to amend a certain section of an already existing bill so that when the Ombudsman forfeits properties of an accused person, 30% of those forfeited properties will go to the Ombudsman for its own use in running its office more efficiently. However, this amendment is not as simple as it looks. It is so much more complicated by other existing laws and also by experience of the Ombudsman. Thus, with the indulgence of our colleagues, allow me to deliver this very brief intervention.

Our Senate Bill No. 1966, with its proposed amendment of Republic Act No. 1379, otherwise known as the Forfeiture Law, seeks to provide an incentive or reward to the Office of the Ombudsman by allotting 30% of the value of

forfeited properties as additional funding for that office. It is expected that this incentive or reward will provide a much-needed boost to the government's anti-corruption campaign. Hence, I believe that the intentions of this bill are entirely laudable. However, I have to add that given the experience of the Ombudsman in forfeiture cases filed under Republic Act No. 1379, the proposed incentive or reward may not achieve its intended result.

Let me go back a little bit.

Our original law, R.A. No. 1379, since late 1955, has been one of two procedures available to the Office of the Ombudsman to forfeit property believed to be ill-gotten. So, there are two procedures available, not just the procedure under R.A. No. 1379 with which we are now familiar.

The other procedure is Supreme Court Administrative Matter (AM) No. 05-11-04-SC, entitled "Rules of Procedure of Civil Forfeiture, Asset Preservation and Freezing of Monetary Instrument, Property or Proceeds Representing, Involving or Relating to an Unlawful Activity or Money Laundering Offense Under R.A. No. 9160, as Amended."

Unlike the Supreme Court rule on civil forfeiture, our original law, R.A. No. 1379, suffers from a significant disadvantage. It has no provisional remedies. In law, when we talk of a provisional remedy in a forfeiture case, we refer, for example, to a freeze order or an asset preservation order to preserve the suspected ill-gotten property pending forfeiture proceedings. *Kasi pag binibista ang kaso, more or less, alam ng akusado kung makokondena siya o hindi. Kung makondena siya, natural na tinuruan na siya ng kanyang abugado na ang pag-aari niya ay kukunin na ng gobyerno. Kaya habang nagbibista pa lang ay itinatago o ibinebenta na niya. Kaya kapag naglabas ng hatol ang huwes, wala ng pag-aari ang akusado na mahahabol ng ating gobyerno.* That is why, under the Supreme Court rule, there was an improvement over the old law because the Supreme Court gave the trial judge the power to issue a provisional remedy such as a freeze order. *Ibig sabihin, huwag siyang gumawa ng maski anumang hakbang tungkol sa kanyang pag-aari: hindi puwedeng ibenta, i-donate, paupahan at iba pa, o kaya asset preservation order.*

And so, since our original law does not have a provision for provisional remedies, if we just pass the present bill, as it is, the law will still remain deficient. It will allow the defendant to

transfer, dispose of or otherwise conceal his property during the usually prolonged trial and appeals process.

Consequently, the Ombudsman's experience has been that cases filed under R.A. No. 1379, although resulting in a judgment of forfeiture, have rarely, if ever, resulted in actual forfeiture in favor of the government. *Kaya itong batas na ating ina-amyenda ngayong hapon, sa totoong buhay, ay hindi nagtagumpay dahil may kulang. Kung ito lamang ang aamyendahin natin sa mas lumang batas, di ganoon pa rin, may kulang pa rin*

For this reason, prosecutors at the Office of the Ombudsman have, whenever possible, preferred to file forfeiture cases using the Supreme Court rule rather than R.A. No. 1379. Thus, the proposed amendment will not have the intended effect for two reasons: The first reason is that Ombudsman prosecutors will not use R.A. No. 1379 because of lack of provisional remedies; and second, in the rare instances that the prosecutors might use R.A. No. 1379, the proposed incentive or reward will be theoretical or, worse, will be frustrated since it depends on actual forfeiture and not only on a successful judgment.

Consequently, if the intention of the proposed amendment is to boost the government's effort to go after corruption and ill-gotten wealth, R.A. No. 1379 should be further amended. In the course of this little dissertation, I will make proposals for amendment.

This is my first proposal: It should be further amended to provide a procedure for asset preservation and freeze orders of bank accounts and other monetary instruments similar to the procedure under the Supreme Court rule in money laundering cases.

R.A. No. 1379 refers to civil forfeiture proceedings directed against unexplained wealth, meaning, properties that are manifestly disproportionate to the public officer's lawful sources of income. Civil forfeiture is an alternative to criminal prosecution. Notice that although our present bill refers to civil forfeiture since the original law is the civil forfeiture law, it is actually referring to criminal prosecution by the Ombudsman, thus, in effect, fudging the two kinds of forfeiture.

Civil forfeiture is an alternative to criminal prosecution and is resorted to due to the lack of evidence to prove a corruption offense as the source of unexplained wealth. This is because,

we all know, that in a criminal case, the standard of the burden of proof is proof beyond reasonable doubt; whereas, in a civil case, the standard of the burden of proof is merely preponderance of evidence. *Ito ang siyang dahilan kung bakit mas gusto ng gobyerno na ang kaso sibil na lamang ang unahin dahil mahirap makakuha ng condenacion sa kaso criminal.*

Clearly, where the Ombudsman has sufficient evidence to prove corruption, it should file the necessary information and, as an incident of a final judgment of conviction, forfeit the proceeds of the corruption offense in favor of the government.

Therefore, the proposed incentive or reward for the Ombudsman should also apply to judgment in criminal cases involving corruption offenses and not only those in civil forfeiture cases. *Ang problema sa ating panukalang batas ay ang dahilang nag-aamyenda ito ng isang dati ng batas, limitado siya dahil ang dating batas ay tungkol lamang sa civil forfeiture. Kaya itong ating pag-amyenda ay tungkol din sa civil forfeiture. Ang gusto natin ay ang criminal forfeiture dahil binabanggit natin ang Ombudsman.*

Hence, I suggest that criminal forfeiture shall be applicable but only to the primary corruption offenses, namely, plunder, malversation, bribery and graft. This will, however, require a separate amendment to cover the criminal cases.

So now I come to my second amendment. I suggest an amendment of R.A. No. 6770 or the Ombudsman Act of 1989. My explanation will also require that our Senate Bill No. 1966 should be retitled preferably as follows: "An Act to Provide a Fix Percentage of the Value of Forfeited Properties in Corruption and Forfeiture Cases as Additional Funding for the Office of the Ombudsman, Amending for this Purpose Section 6 of Republic Act No. 1379, Otherwise Known as the Forfeiture Law; and R.A. No. 6670, otherwise Known as the Ombudsman Act of 1989."

And I respectfully recommend that we should delete the phrase, "and for other purposes" because if my honorable colleague will remember, in the College of Law, we are taught that the phrase "for other purposes" has absolutely no meaning in law. It does not control the substance or the interpretation of the context of the law. And that is why the Supreme Court said, in effect, that when we draft bills in Congress, we should not use the phrase "and for other purposes."

*Ab* *po*

Parenthetically, as presently drafted, the title of Senate Bill No. 1966 is erroneous because it refers to forfeited properties in corruption cases. As I have explained, R.A. No. 1379 has not resulted in actual forfeitures.

I did not wait for the period of amendments but instead offer these amendments during the period of interpellations so that if the Chair wishes, he can either avail of the option of amending the bill in his own committee or wait for me during the period of amendments to propose these amendments all over again. But as I said, these amendments are just too numerous and they are just too comprehensive to be proposed during the period of amendments.

Here is the third amendment: there should be a cap in the peso amount of the incentive or the reward. Given the scale of present-day corruption, the 30% earmarked for the Ombudsman may, in some cases, be excessively large. For example, if the incentive were applied to the judgment in the case of former President Estrada, the amount would be roughly P180 million. Hence, I urge that the reward or incentive should be *subject to audit*.

Finally, here is my fourth and last amendment, although not necessarily the absolute last amendment because I might raise amendments during the period itself. The amendment should include criteria for the allocation of the incentive or the reward. *Hindi dapat automatic na 30% ibibigay sa Ombudsman*. This criterion may, for example, provide that a portion should be used to supplement employees' salaries and benefits for all employees, and not just for a selected few, for skills training and education for staff, for computerization or other similar capacity-building measures of the Ombudsman. I may also prohibit certain allocations such as the purchase of executive vehicles. Without such guidelines, the discretion of the Ombudsman to distribute the incentive or reward will be unchecked and this may, in turn, lead to such unwanted results as favoritism or worse, further corruption.

Hence, to summarize, if I have any question at all during this interpellation period, the respectful question is: Will His Honor be willing to consider as committee amendments the following?

1. An amendment to provide a procedure for asset preservation and freeze orders of bank accounts and other monetary instruments similar to the procedure under the Supreme Court rule in money-laundering cases;

2. An amendment of the Ombudsman Act of 1989 so as to cover criminal cases, and related

to this, an amendment to retitle the Act, as I have already explained;

3. A cap or a maximum in the peso amount of the incentive or reward, and related to this, the reward or incentive should be subject to audit; and

4. The amendment to provide criteria for the allocation of the incentive or the reward including the prohibition of certain allocations.

Since this will be recorded verbatim in the *Journal*, His Honor may avail of the official *Journal* version tomorrow to be able to present these amendments to the committee amendments.

*I would be happy to hear the response of his honor, the sponsor.*

In response, Senator Escudero stated that the Committee would study the transcripts of the proceedings and would adopt the proposed amendments of Senator Defensor Santiago as its own. Nonetheless, he agreed to acknowledge Senator Defensor Santiago as the author of the amendments so that she could defend them in case they are questioned at some future time.

## INTERPELLATION OF SENATOR ANGARA

Senator Angara disclosed that since 1987, legislative set-asides have been enacted for agrarian reform, higher education and sports, among others, but the experience with such funds has been an unhappy one, and lavish, wasteful spending continues. For instance, he stated that when U.S. \$650 million was recovered from the Marcos fund in Switzerland, it was handed over for agrarian reform but within a year, it was spent and no accounting was ever given. The same set-aside, he said, was allotted for the development of higher education but instead of being spent for that purpose, a quarter of a billion was spent on the construction of a call center. He added that the same happened to the half a billion set-aside yearly for the *Philippine Sports Commission* but the performance of Filipino athletes leave much to be desired.

Senator Angara asked why only the anti-graft prosecutors would be getting the incentive or reward when the whole Judiciary needs extra funding as he recalled that the Judiciary was, in fact, allocated extra allowance two years ago. Senator Escudero replied that the Committee shares the same sentiment, having seen how legislative set-asides are being handled. He clarified, however, that the additional allowances due the members of the Judiciary remain

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unfunded up to the present. He stressed that the Office of the Ombudsman performs a particular obligation and duty to the government and it was granted P500 million short of its budget submission for 2008.

Senator Angara observed that there would always be a gap between the proposed and approved budgets of a particular agency. He noted that the Office of the Ombudsman was appropriated close to one billion pesos.

He said that he is particularly interested in the Ombudsman because he was the author of the law that created the Office of the Ombudsman. However, he stated that he was opposed to favoring just one office because by granting an automatic appropriation, Congress loses the power to scrutinize the programs.

*At this juncture, Senate President Villar relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.*

Senator Escudero confirmed that the budget of the Office of the Ombudsman had been supplemented by some P200 million to P300 million via the General Appropriations Act in the previous Congresses. However, he expressed hope that the inclusion of the proposed committee amendments of Senator Defensor Santiago would prevent the excesses associated with past legislative set-asides. He also believed that the proposal for an automatic appropriation for the agency could still be implemented through a provision in the General Appropriations Act.

To the contention that the practice of having legislative set-asides should no longer be continued, and, instead, government ought to begin husbanding limited resources by examining every project requesting funding, Senator Escudero expressed hope that the proposed cap as well as the specific guidelines for the fund's expenditure would address the matter of abuses and excesses. He also believed that the bill could be amended so that the oversight function of Congress to audit past expenditures insofar as the additional fund allocation for the budget of the Office of the Ombudsman is concerned would not be negated.

In closing, Senator Angara requested an amended copy of the bill even as he reserved the right to further amend the same.

#### **INTERPELLATION OF SENATOR ARROYO**

At the outset, Senator Arroyo noted that the bill is actually a tax measure that ought to have been

referred to the Committee on Ways and Means, rather than sponsored by the Committee on Justice and Human Rights. Lest the Body be accused of adopting shortcuts, he suggested that the Committee on Ways and Means hold at least one hearing on the bill and thereafter, the Body would again thoroughly review and discuss it. He pointed out that the proposal to set aside portions of agency-generated income would lead to losses for the national treasury and this, he said, should be discouraged. He maintained that the bill is a revenue measure that is under the purview of the Bigger House.

Senator Escudero replied that he would consult the Committee on Rules concerning the bill's referral to the Committee on Ways and Means. He also believed that the issue on legislative set-asides ought to be discussed during a senators' caucus so that the Senate could take a stand on the matter.

#### **SUGGESTION OF SENATOR LACSON**

Senator Lacson suggested that instead of referring the bill to the Committee on Ways and Means, the Body instead forego the period of interpellations and, after receiving a clean copy of the proposed amendments, move on to the period of committee amendments, but without prejudice to allowing Members to ask clarificatory questions during the period of individual amendments.

Senator Escudero requested that the Committee be given time to obtain copy of the transcripts so that it could craft the appropriate committee amendments based on the suggestions offered by Senator Defensor Santiago.

#### **INTERPELLATION OF SENATOR PIMENTEL**

At the outset, Senator Pimentel asked for Senator Escudero's views on the issue of transparency in the Office of the Ombudsman as he pointed out that transparency in dealing with the public is crucial to any attempt to generate more financial support from government coffers. For instance, he noted that rather than acceding to his request for a list of pending cases against local government officials as well as dates when these cases were filed, the overall Deputy Ombudsman had informed him of a general order issued by then Ombudsman Conrado Vasquez which prohibited the sharing of such information because of a decree by former President Marcos. But that decree, he pointed



out, had been overruled by constitutional requirements for transparency in the affairs of government.

He also disagreed with the agency's rationale against sharing this kind of information to prevent undue publicity, as he warned that this would, in effect, create a new level of favored personalities since no such inhibition is imposed when local government officials belonging to the Opposition are the ones facing charges.

Senator Escudero agreed that the Office of the Ombudsman is neither transparent nor cooperative insofar as matters of legislation such as the General Appropriations Act are concerned as he recalled that the Ombudsman had also failed to provide him with its list of pending cases during his term at the House of Representatives. He also shared Senator Pimentel's observation that only members of the Opposition and not Administration partymates, who are charged before the Ombudsman, are given a speedy trial.

Senator Pimentel noted that even Senator Enrile, who, as Chairman of the Committee on Finance, supported his request for the list of pending cases before the Ombudsman during the budgetary hearings, had been ignored by the agency. He warned that the Office of the Ombudsman would probably receive the same treatment from the Senate if it would maintain such an attitude.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Escudero, the session was suspended.

*It was 4:36 p.m.*

#### **RESUMPTION OF SESSION**

At 4:37 p.m., the session was resumed.

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

Senator Pangilinan manifested that Senator Enrile has agreed to officially communicate to the Ombudsman to provide the Committee on Finance with the requested documents, which it would then turn over to Senator Pimentel.

Likewise, Senator Pangilinan stated that Senator Escudero has agreed that consideration of the measure

be suspended until the Office of the Ombudsman shall have submitted the necessary documents to the Senate.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1966**

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

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL NO. 3156**

Upon motion of Senator Pangilinan, there being no objection, the Body considered the Conference Committee Report on the disagreeing votes of the two Houses on House Bill No. 3156, entitled

AN ACT CREATING THE CIVIL AVIATION AUTHORITY OF THE PHILIPPINES, AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR, AND FOR OTHER PURPOSES.

The Chair recognized Senator Enrile to sponsor the report.

#### **SPONSORSHIP SPEECH OF SENATOR ENRILE**

Senator Enrile submitted for consideration of the Body the Conference Committee Report on the disagreeing votes of the two Houses on House Bill No. 3156. He reported the highlights of the agreements arrived at during that Bicameral Conference Committee meeting as contained in the Committee's Joint Explanatory Statement, to wit:

1. The conferees agreed to use the House version as the working draft.
2. The Senate amendment recognizing and affirming the powers and functions of the Civil Aviation Board (CAB) as provided for under Republic Act No. 776 was adopted.
3. On the membership of the board of directors of the Civil Aviation Authority, the Conference Committee agreed to replace the representative from the private sector with the Secretary of the Department of Labor and Employment as the seventh (7<sup>th</sup>) member of the Board.

4. The Conference Committee likewise agreed to grant fiscal autonomy to the new Civil Aviation Authority with a mandatory proviso that:

THE UTILIZATION OF ANY FUNDS COMING FROM THE COLLECTION AND/OR LEVY OF THE AUTHORITY SHALL BE SUBJECT TO THE EXAMINATION OF THE CONGRESSIONAL OVERSIGHT COMMITTEE THAT IS TO BE CREATED.

5. The Senate amendment exempting the Authority from payment of taxes, customs and tariff duties for importation of equipment, machineries, spare parts, accessories and other materials used solely and exclusively in the operations of the Authority was also adopted by the Conference Committee.

6. The Conference Committee agreed to adopt a provision which authorizes the new Civil Aviation Authority to determine the new schedule of salaries of the employees of the Authority subject to compliance with existing compensation laws except the highly technical positions that are not common to the other agencies of the government, in which case, these technical positions will be outside of the Salary Standardization Law. These special positions which shall be exempted from the existing compensation laws will be specified in the implementing rules and regulations to be issued.

7. The Board shall be required to conduct public hearings in relation to its authority to determine, fix, impose, and collect charges and fees.

8. The Conference Committee also agreed to adopt a provision that will allow any real property owned by the national government or government-owned or controlled corporation or authority which is currently being used and utilized as office or facility by the Air Transport Office (ATO) to be transferred and titled in favor of the new Civil Aviation Authority.

9. The Conference Committee likewise agreed to put a sunset clause on the operation of the Congressional Oversight Committee created under the measure such that after a period of five (5) years of operation, the oversight functions of the Congressional Oversight Committee shall be exercised by the Senate Committee on Public Services and the House Committee on Transportation acting separately.

10. The Conference Committee agreed to adopt a provision recognizing the independence and autonomy of existing airports authority such

as the Manila International Airport Authority; Subic Bay Metropolitan Authority as regards the Subic Bay International Airport; Clark International Airport Corporation; and the Mactan-Cebu International Airport Authority, from the operations of the new Civil Aviation Authority.

To be consistent with the agreement to utilize the House version, the title of the measure shall read as follows:

AN ACT CREATING THE CIVIL AVIATION AUTHORITY OF THE PHILIPPINES, AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR, AND FOR OTHER PURPOSES.

He stated that in case of conflict between the statements/amendments stated in the Joint Explanation and that of the provisions of the consolidated bill in the accompanying Conference Committee Report, the provisions of the latter shall prevail.

Thereupon, Senator Enrile moved for the approval of the Report.

#### **APPROVAL OF THE CONFERENCE COMMITTEE REPORT**

Submitted to a vote and with the majority of the senators voting in favor and one abstaining, the Conference Committee Report on House Bill No. 3156 and its Senate version was approved.

#### **EXPLANATION OF VOTE OF SENATOR ARROYO**

Senator Arroyo cast a vote of abstention, saying that had it been filed three or four months ago, he would have strongly supported it as it is good and necessary. However, he lamented that the bill is also a recognition of the way things are being run at present. In this regard, he recalled that during the recent budget deliberations, the Air Transportation Office (ATO) only asked for a budget of P1,500,000 knowing since October that the country was in danger of being downgraded. With a budget of P1.5 million, he wondered what the ATO can do. He pointed out that neither the Department of Transportation and Communications nor the ATO ever mentioned during the budget hearings that the country was in danger of being downgraded and that they needed money to shore up their facilities, relying instead on the passage of the bill to prevent the downgrade but lamentably, it did not.

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Senator Arroyo stated that he was chairman of the Committee on Public Services for six years, and he knew for a fact that the government has not given any subsidy to Philippine Airlines, the flag carrier of the country; whereas in the United States, the U.S. government bailed out the ailing American Airlines, United Airlines and Delta Airlines with loans. He asserted that if the country wants to have a flag carrier, it is the duty of the government to protect airlines from competition as he rued that even small foreign airlines are being allowed in Clark Air Base. He pointed out that the government nonetheless must have a policy, whether "open skies" as some quarters have been advocating, is a good policy.\*

With respect to the national airport, Senator Arroyo asked whether it is the policy of government to develop Clark Air Base or to retain the Ninoy Aquino International Airport (NAIA) as the country's premier airport. He said that the country is in this mess because Congress that is supposed to be a policy-determining body in government has no say in determining the main hub of the country or in matters pertaining to protecting the national carrier.

**COMMITTEE REPORT NO. 26  
ON SENATE BILL NO. 1965**  
(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1965 (Committee Report No. 26), entitled

AN ACT DECRIMINALIZING VAGRANCY,  
AMENDING FOR THE PURPOSE  
ARTICLE 202 OF REPUBLIC ACT  
NO. 3815, AS AMENDED, OTHER-  
WISE KNOWN AS THE REVISED  
PENAL CODE.

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

Thereupon, the Chair recognized Senator Escudero, Sponsor of the measure, and Senator Arroyo for his interpellation.

**COAUTHOR**

Senator Pangilinan manifested that Senator Legarda is coauthor of Senate Bill No. 1965.

\*As corrected by Senator Arroyo on February 5, 2008

**MANIFESTATION OF SENATOR LEGARDA**

Senator Legarda reiterated her full support for the bill, saying that she authored a similar measure during her first term in 1998.

**COSPONSORSHIP SPEECH  
OF SENATOR LEGARDA**

At the instance of Senator Legarda, there being no objection, her cosponsorship speech on Senate Bill No. 1965 was deemed read into the record.

*Following is the full text of the speech:*

I am pleased to cosponsor Senate Bill No. 1965, "An Act Decriminalizing Vagrancy, Amending for the Purpose Article 202 of Republic Act No. 3815, as Amended, Otherwise Known as the Revised Penal Code" under Committee Report No. 26.

Article 202 of the Revised Penal Code defines vagrants in the form of enumeration, namely:

1. Any person having no apparent means of subsistence, who has the physical ability to work and who neglects to apply himself or herself to some lawful calling;
2. Any person found loitering about public or semi-public buildings or places or tramping or wondering about the country or the streets without visible means of support;
3. Any idle or dissolute person who lodges in house of ill-fame; ruffians or pimps and those who habitually associate with prostitutes;
4. Any person who, not being included in the provisions of other articles of this Code, shall be found loitering in any inhabited or uninhabited place belonging to another without any lawful or justifiable purpose; and
5. Prostitutes.

According to the March 2001 article published in the website of Amnesty International entitled "*PHILIPPINES: Fear, shame and impunity; rape and sexual abuse of women in custody,*" there had been calls for the repeal of the anti-vagrancy law because it discriminates against the poor and is used to

*ms*

penalize those who are homeless or without any visible means of subsistence. Also, the law has been used in a way which discriminates on the basis of gender. Women's groups report that while women, particularly suspected prostitutes, are routinely arrested under the anti-vagrancy law, it is never or rarely used against suspected male offenders.

In 1997, the United Nations Committee on the Elimination of Discrimination Against Women also criticized the discriminatory application of the law, noting that it was enforced against female sex workers but not against men involved as traffickers, pimps or clients. Amnesty International is concerned that the anti-vagrancy law has been used as a pretext for arbitrary arrest and detention. The organization particularly underscored that the vague wording of the law leaves it open to abuse by law enforcement officials.

Indeed, instead of addressing the issue of poverty through positive actions in the form of policies and regulations that would address their basic needs, the State is penalizing poor people through the anti-vagrancy law. This bill aims to remedy such situation by decriminalizing vagrancy.

Without prejudice to the filing of a separate bill addressing the issue of prostitution under Article 202 of the Revised Penal Code, I join the distinguished sponsor in requesting this Chamber's positive action on this proposed measure.

## INTERPELLATION OF SENATOR ARROYO

At the onset, Senator Arroyo stated the provision on vagrancy was incorporated into the Revised Penal Code of 1932. He stated that the law defines "vagrants" as any person having no apparent means of subsistence or a physical ability to work and neglects to apply himself/herself to some lawful calling. He said that the bill is in effect "anti-poor" because it applies to people loitering in a place but not to call girls who also loiter in hotels and other places.

Asked if it is correct to decriminalize vagrancy, Senator Escudero answered in the affirmative. With respect to prostitution, he said that it would be a subject of another bill. He adverted to an earlier manifestation of Senator Cayetano (P) that drew attention to the position of international organizations and institutions to consider prostitutes as victims and not as criminals.

Asked on the effects of the bill when enacted into law, Senator Escudero stated that the provisions on vagrancy as they apply to any person arrested and charged for such an offense would be repealed. But he explained that local government units would not be prevented from passing an ordinance with regard to the treatment of people in similar situations such as placing them under DSWD custody so that they can be properly taken care of.

Senator Escudero affirmed that the bill effectively repeals the entire Section 1 of Article 202 except the provision referring to prostitutes; hence, after the amendment, paragraph (2) of Article 202 would read:

For purposes of this Article, women who, for money or profit, habitually indulge in sexual intercourse or lascivious conduct, are deemed to be prostitutes.

Senator Escudero stated that there was a concomitant amendment to change the word "women" to PERSONS. However, he noted that there seems to be a position gaining international recognition that prostitutes are not offenders but victims, and that penalties should therefore be concentrated on pimps and those who force, influence or cajole persons to engage in prostitution, including but not limited to the clients of such prostitutes, whether men or women.

Asked whether women who engage in the activity for professional advancement would be punishable under the measure, Senator Escudero replied that he would not want to preempt the Committee because it would still have to come out with its recommendation.

Regarding lines 10 to 14, Senator Escudero explained that the Committee made only some editorial changes; it did not touch the provisions on penalties as these are still applicable to prostitutes.

On whether there would be a new range of penalties for the crime of prostitution, Senator Escudero opined that either a new range of penalties would be instituted or, totally, the crime of prostitution would be eliminated from the existing penal laws considering the new proposition that prostitutes are deemed as victims rather than criminals.

Asked whether men who are beneficiaries of the services of prostitutes would not suffer from any kind of penalty, Senator Escudero informed the Body of a bill pending before the Committee on Youth, *ff*

*ff*

Women and Family Relations on this particular matter as well as with respect to decriminalizing prostitution.

Asked why the Committee did not consolidate the said measure with the present bill instead of taking them up separately, Senator Escudero replied that the Committee on Justice and Human Rights does not want to encroach on what was referred to other committees.

### **SUSPENSION OF SESSION**

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

*It was 5:08 p.m.*

### **RESUMPTION OF SESSION**

At 5:09 p.m., the session was resumed.

### **RESERVATION TO INTERPELLATE**

Senator Pangilinan manifested that Senator Defensor Santiago has made reservation to interpellate on Senate Bill No. 1965 in the next day's session.

### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1965**

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

### **SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 5:10 p.m.*

### **RESUMPTION OF SESSION**

At 5:13 p.m., the session was resumed.

### **MANIFESTATION OF SENATOR PIMENTEL**

Senator Pimentel informed the Body that he was informed by a priest from New York that the so-called "Sentosa nurses" had just been convicted for allegedly abandoning and endangering the lives of their patients, as a result of their disagreements with their recruiting agency that did not seem to have complied with their commitments when they were

recruited. He stressed the need for government to help those Filipino nurses in any way. He then asked the permission of the Chamber to refer the matter to the Committees on Labor, Employment and Human Resources Development; and Foreign Affairs, which should look into the situation and make proper recommendations.

The Chair replied that the Committee on Labor, Employment and Human Resources Development has already conducted a preliminary hearing on the matter and intends to conduct another hearing in the following week.

Asked by the Chair how many of those nurses were convicted, Senator Pimentel replied that there were five or six of them. He observed that it was a discouraging situation and puts Filipino nurses in a bad light.

### **REFERRAL OF MANIFESTATION TO COMMITTEES**

Upon motion of Senator Pangilinan, there being no objection, the Chair referred the manifestation of Senator Pimentel primarily to the Committee on Labor, Employment and Human Resources Development; and secondarily to the Committee on Foreign Relations.

### **SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 5:16 p.m.*

### **RESUMPTION OF SESSION**

At 5:24 p.m., the session was resumed.

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

The Deputy Secretary for Legislation, Edwin B. Bellen, read the following matters and the Chair made the corresponding referrals:

#### **BILLS ON FIRST READING**

Senate Bill No. 2044, entitled

AN ACT PROHIBITING NON-DETECTABLE FIREARMS PROVIDING

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**PENALTIES THEREOF AND FOR OTHER PURPOSES**

Introduced by Senator Manny Villar

**To the Committee on Public Order and Illegal Drugs**

Senate Bill No. 2045, entitled

AN ACT REGULATING THE MANUFACTURE AND SALE OF GUN REPLICAS PROVIDING PENALTIES THEREOF AND FOR OTHER PURPOSES

Introduced by Senator Manny Villar

**To the Committees on Public Order and Illegal Drugs; and Trade and Commerce**

**RESOLUTIONS**

Proposed Senate Resolution No. 288, entitled

RESOLUTION COMMENDING CARLA GISELA YSABEL CONCEPCION FOR WINNING THE 2008 BPI-DOST SCIENCE AWARDS FOR HER POTENTIALLY GROUNDBREAKING STUDY ON TRACKING CANCER CELLS USING GREEN FLUORESCENT PROTEIN FROM SOFT CORAL REEF ABUNDANT IN THE PHILIPPINES

Introduced by Senator Compañera Pia S. Cayetano

**To the Committee on Rules**

Proposed Senate Resolution No. 289, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES TO CONDUCT AN INQUIRY ON THE CAUSES AND EFFECTS OF CLIMATE CHANGE AND THE MEASURES THAT CAN BE ENACTED TO ALLEVIATE THE SAME

Introduced by Senator Compañera Pia S. Cayetano

**To the Committee on Environment and Natural Resources**

Proposed Senate Resolution No. 290, entitled

RESOLUTION URGING THE DEPARTMENT OF NATIONAL DEFENSE TO ESTABLISH A SEPARATE GRAVE SITE OR A MEMORIAL IN THE LIBINGAN NG MGA BAYANI TO HONOR THE HEROISM OF ALL THE FILIPINO SOLDIERS WHO COURAGEOUSLY FOUGHT IN THE PHILIPPINE-AMERICAN WAR

Introduced by Senator Francis N. Pangilinan

**To the Committee on Rules**

Proposed Senate Resolution No. 291, entitled

RESOLUTION URGING THE COMMITTEE ON LABOR, EMPLOYMENT AND HUMAN RESOURCES DEVELOPMENT TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE POLICY OF REQUIRING US\$5,000 REPATRIATION BOND AND PERFORMANCE BOND EQUIVALENT TO THREE MONTHS SALARY FROM EMPLOYERS OF DIRECTLY HIRED FILIPINOS AS COVERED BY POEA MEMORANDUM CIRCULAR 4, SERIES OF 2007, WITH THE END IN VIEW OF RECOMMENDING APPROPRIATE LABOR LEGISLATION FOR OVERSEAS FILIPINO WORKERS

Introduced by Senator Manny Villar

**To the Committee on Labor, Employment and Human Resources Development**

**PROPOSED SENATE RESOLUTION NO. 290**

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 290, entitled

RESOLUTION URGING THE DEPARTMENT OF NATIONAL DEFENSE TO ESTABLISH A SEPARATE GRAVE SITE OR A MEMORIAL IN THE LIBINGAN NG MGA BAYANI TO HONOR THE HEROISM OF ALL

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THE FILIPINO SOLDIERS WHO  
COURAGEOUSLY FOUGHT IN THE  
PHILIPPINE-AMERICAN WAR.

**SPONSORSHIP REMARKS  
OF SENATOR PANGILINAN**

Senator Pangilinan stated that February 4, 2008 marks the 107<sup>th</sup> year of the Philippine-American War; to date, however, no memorial has been put up at the *Libingan ng mga Bayani* for the 17,000 Filipino soldiers who fought and died during that war. He said that the resolution seeks to honor those who sacrificed their lives fighting for Philippine independence.

**ADOPTION OF PROPOSED  
SENATE RESOLUTION NO. 290**

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 290 was adopted by the Body.

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 5:27 p.m.*

**RESUMPTION OF SESSION**


At 5:27 p.m., the session was resumed.

**ADJOURNMENT OF SESSION**

Upon motion of Senator Pangilinan, there being no objection, the Senate President Pro Tempore declared the session adjourned until three o'clock in the afternoon of the following day.

*It was 5:27 p.m.*

I hereby certify to the correctness of the foregoing.

  
EMMA LIRIO-REYES  
Secretary of the Senate

Approved on February 5, 2008