



REPUBLIC OF THE PHILIPPINES

S e n a t e

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Journal

SESSION NO. 35

Tuesday, November 16, 2004

**THIRTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 35
Tuesday, November 16, 2004

CALL TO ORDER

At 3:36 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Panfilo M. Lacson led the prayer, to wit:

God of life and justice,

We seek Your wisdom so that our senses may be led towards a common endeavor in bringing out life beneficial to our people, a life that is not threatened by poverty and senselessness.

Our countless prayers to You may seem unceasing since we continuously fail to listen to what is right. We value the life You have given us. Make us listen to You. In our eagerness to lead people, we sometimes create paths that lead to perdition. Maybe these are the times we fail to seek You. In our failures, we humbly seek Your path where we may be led to the right road.

All we pray today is to seek You in the light of our responsibilities for us to know the essentials of truth, justice and national recovery. At the same time, we ask You to make our hands work for Your glory.

And this we pray, through Jesus our Lord.

Amen.

ROLL CALL

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

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|----------------------------|----------------------|
| Angara, E. J. | Gordon, R. J. |
| Arroyo, J. P. | Lacson, P. M. |
| Cayetano, C. P. S. | Lapid, M. L. M. |
| Defensor Santiago, M. | Lim, A. S. |
| Drilon, F. M. | Magsaysay Jr., R. B. |
| Ejercito Estrada, J. | Osmeña III, S. R. |
| Ejercito Estrada, L. L. P. | Pangilinan, F. N. |
| Enrile, J. P. | Pimentel Jr., A. Q. |
| Flavier, J. M. | Roxas, M. |

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

Senators Biazon, Madrigal, Recto, Revilla and Villar arrived after the roll call.

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. 34 and considered it approved.

REFERENCE OF BUSINESS

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

BILLS ON FIRST READING

Senate Bill No. 1847, entitled

AN ACT PROVIDING FOR THE
RECOVERY OF FINANCIALLY
DISTRESSED ENTERPRISES AND
THE RESOLUTION OF THEIR
INDEBTEDNESS

Introduced by Senator Angara

To the Committees on Banks, Financial Institutions and Currencies; and Ways and Means *AK*

Senate Bill No. 1848, entitled

AN ACT PROMOTING QUALITY NON-COMMERCIAL AND PRIMARILY EDUCATIONAL, HISTORICAL AND CULTURAL TELEVISION AND RADIO PROGRAMS BY PROVIDING TAX INCENTIVES TO TELEVISION AND RADIO STATIONS AND CABLE TELEVISION SYSTEMS WHICH DEVELOP, PRODUCE AND BROADCAST SUCH PROGRAMS AND FOR OTHER PURPOSES

Introduced by Senator Pangilinan

To the Committees on Public Information and Mass Media; Education, Arts and Culture; and Ways and Means

Senate Bill No. 1849, entitled

AN ACT AMENDING REPUBLIC ACT NO. 9257, OTHERWISE KNOWN AS AN ACT GRANTING ADDITIONAL BENEFITS AND PRIVILEGES TO SENIOR CITIZENS AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7432, OTHERWISE KNOWN AS AN ACT TO MAXIMIZE THE CONTRIBUTION OF SENIOR CITIZENS TO NATION BUILDING, GRANT BENEFITS AND SPECIAL PRIVILEGES AND FOR OTHER PURPOSES

Introduced by Senator Angara

To the Committees on Ways and Means; and Social Justice, Welfare and Rural Development

Senate Bill No. 1850, entitled

AN ACT CONSOLIDATING THE PHILIPPINE NATIONAL RAILWAYS AND THE LIGHT RAIL TRANSIT AUTHORITY INTO THE NATIONAL RAILWAY

AUTHORITY TO INTEGRATE AND REVITALIZE RAILWAY TRANSPORTATION IN THE PHILIPPINES, AUTHORIZING THE ISSUANCE OF BONDS THEREFOR TO BUILD AN ADEQUATE AND EFFICIENT NATIONAL RAILWAY TRANSPORTATION SYSTEM, AND FOR OTHER PURPOSES

Introduced by Senator Gordon

To the Committees on Government Corporations and Public Enterprises; Public Services; Ways and Means; and Finance

Senate Bill No. 1851, entitled

AN ACT AMENDING REPUBLIC ACT NO. 8436, ENTITLED AN ACT AUTHORIZING THE COMMISSION ON ELECTIONS TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Gordon

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

Senate Bill No. 1852, entitled

AN ACT AMENDING SECTION 42 CHAPTER 7 SUBTITLE II TITLE VIII OF EXECUTIVE ORDER NO. 292, AS AMENDED, OTHERWISE KNOWN AS THE ADMINISTRATIVE CODE OF 1987

Introduced by Senator Gordon

To the Committees on National Defense and Security; and Constitutional Amendments, Revision of Codes and Laws

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Senate Bill No. 1853, entitled

AN ACT AMENDING SECTION 26 OF
REPUBLIC ACT NO. 6975, AS
AMENDED, OTHERWISE KNOWN
AS THE DEPARTMENT OF
INTERIOR AND LOCAL
GOVERNMENT ACT OF 1990

Introduced by Senator Gordon

To the Committees on Public Order and
Illegal Drugs; and Local Government

RESOLUTIONS

Proposed Senate Resolution No. 129, entitled

RESOLUTION DIRECTING THE
COMMITTEE ON ENERGY TO
CONDUCT AN INVESTIGATION,
IN AID OF LEGISLATION, INTO
THE ASSUMPTION BY THE
NATIONAL GOVERNMENT OF A
PORTION OF NATIONAL POWER
CORPORATION'S FINANCIAL
OBLIGATIONS

Introduced by Senator Mar Roxas

To the Committee on Energy

Proposed Senate Resolution No. 130, entitled

RESOLUTION CALLING ON THE
COMMITTEE ON EDUCATION,
ARTS AND CULTURE TO URGE
THE DEPARTMENT OF NATIONAL
DEFENSE, COMMISSION ON
HIGHER EDUCATION AND THE
TECHNICAL EDUCATION AND
SKILLS DEVELOPMENT
AUTHORITY TO SUBMIT A REPORT
ON THE STATUS OF THE
IMPLEMENTATION OF REPUBLIC
ACT NO. 9163 ENTITLED AN
ACT ESTABLISHING THE
NATIONAL SERVICE TRAINING
PROGRAM (NSTP) FOR TERTIARY
LEVEL STUDENTS, AMENDING
FOR THE PURPOSE REPUBLIC
ACT NO. 7077 AND PRESIDENTIAL

DECREE NO. 1706 AND
PRESIDENTIAL DECREE NO. 1707,
AND FOR OTHER PURPOSES

Introduced by Senator Pangilinan

To the Committees on Education, Arts and
Culture; and National Defense and Security

QUESTION OF PRIVILEGE OF SENATOR ANGARA

On a question of personal and collective
privilege, Senator Angara spoke on his meeting
with President Macapagal Arroyo and the efforts
to forge cooperation between the Opposition and
the Administration.

Hereunder is the full text of his speech:

I rise on a matter of personal and
collective privilege. Personal because in
the past week, the media and even
politicians, some of them my friends in this
Chamber, have been going to town on
me. Collective because the issue involves
this Chamber and the continuing role of an
opposition in government, as opposed to
outright opposition to all government
regardless.

Immediately after my return from my
official trip to Berlin, I was interviewed
by media about my meeting with the
President.

I just told them the plain and simple
truth.

Yet nothing I said to clarify the issues
and correct the mistaken stories appears
to have influenced the continuing distortion
of the facts and the issues.

Did I meet with the President before I
left for abroad? The answer is yes.

Did I accept a Cabinet position? The
answer is no. Was a position ever offered?
Again the answer is no.

Did the meeting in itself compromise
my position in the Opposition? It certainly
did not.

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Deep in the hearts of many of us here, they have been also talked to and met with the President and that did not give rise to any doubt about their loyalty to their position.

What then really happened? Let me explain.

The President had been trying to get in contact with me—and I am sure with many others in this Chamber—since the election and way before the controversial canvass was finished.

I was repeatedly asked, badgered to some extent, to meet with her, in public, in secret, alone, with others as witnesses. I repeatedly declined.

The badgering continued after the canvass started but I still refused to meet. It was unseemly, but for an opportunist, that was the ideal time to meet because the President was still unsure of the outcome.

But the outcome could never be the subject of discussion, let alone negotiation with her or anyone else for Congress had yet to determine who had won a hotly contested election that was too close to call. To this day, we have an election protest in the works.

In that canvass, Senator Aquilino Q. Pimentel Jr. and I led the real Opposition in a good fight—a fight that continues to shape how the public views the government today.

It is that perception that was behind repeated public calls by the President for a government of national unity, and repeated requests in private to meet with her.

But still I declined.

She was proclaimed President.

The requests to meet with her from emissaries, some of whom may have been self-appointed, continued.

I made it clear to them that I was not interested in horse-trading of any kind. But I was concerned about where the country was going and recalled to them how some sort of critical collaboration between the legislative and executive branches—and within the legislature, between government and Opposition—had made the first years of the equally controversial election victory of Fidel V. Ramos a success.

Without any prompting from a President narrowly elected, and who was still feeling his way around, I had offered Fidel V. Ramos a framework for cooperation while continuing in opposition.

I called for the first ever Senate Workshop in Tagaytay which produced 25 serious proposals.

President Ramos was delighted and wanted to run with the proposals. I stopped him. I told him he needed a broader consensus. So he convened a national summit. The proposals increased to 75. He asked me to cull them to a manageable number. I brought them down to 13, all of which became laws such as the *New Bangko Sentral Act*, lifting barriers to entry into the banking system, lifting restrictions on foreign investments, restructuring the educational system, establishing PhilHealth, among others. In short, liberating the potential of the economy and improving the well-being of the Filipino people.

In all my public career, I have always advocated policies and measures which uplift the living standards of the vulnerable in our society -- the youth, farmers and senior citizens -- and health and nutrition.

This was what I had in mind if I would meet with the President: not horse-trading of favors but the sharing of this burden of serious government across-the-board, and only on structured and principled lines.

My colleagues here know me, I hope. I seldom talk. I do not waste people's time with empty air. I prefer solid and substantive work to making empty promises or threats.

I made it clear to the Speaker of the House—who arranged the meeting—that I envisioned not a trading of favors but a principled framework within which alone can any cooperation by the Opposition with the government should take place.

To that meeting, I had insisted that the Senate President be invited. I was very clear in my mind about how the Opposition might cooperate with government while continuing to fiscalize.

With that understanding, I went to the meeting with the President, with Senate President Drilon and Speaker Joe de Venecia present.

At the meeting, the President made repeated pleas for a government of national unity. It was not clear to me what she meant by it.

She did mention the possibility of the Opposition nominating people to the Cabinet.

I asked if she could be clearer about what she meant. I told her that I did not want to get her wrong because I fully intended to talk about this meeting with Senator Nene Pimentel, our Minority Leader, who had fought beside me in the canvassing of the presidential election returns. And I did. In fact, even before that meeting, I consulted with President Erap Estrada about the meeting with President Macapagal Arroyo. And he readily consented if that would benefit the nation, especially the poor.

I reminded President Macapagal Arroyo of how we—she and I and others in opposition to Ramos—had cooperated with that President along structured and principled lines. She remembered. She thanked me for having taken her into a useful collaboration that redounded to the benefit of our country.

The talk went around and around in that way, never progressing any farther than her desire for a government of national unity about which, however, she gave no clear details. But I made it clear to her from start to finish that a government of national unity cannot be reduced to a bipartisan sharing in the spoils of her victory, as some people hope, but only by a critical collaboration for effective government, combined with continuing fiscalizing for good government.

Let me make it clear. I did not ask for nor did she offer me a Cabinet post. Therefore I had no offer even to decline.

But am I planning to leave the Senate at all?

Let me say this first, I wish to be in that place where I can be of most use to my country.

Because it was in the Senate that I was able to serve my country best in an opposition that was also in critical collaboration with the government in the time of Ramos.

After the meeting, I left for Berlin. There I became even more convinced than ever that we must come to some terms of cooperation with a government that seems to have lost its way.

For thinking hard about our country's problems, for exploring all possibilities of helping the country rather than just limiting myself to hurting its government, I have been called an opportunist—even by those who should know me better.

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No one has come to my defense, even those who owe their presence here today in part due to my leadership of the Opposition in the last elections.

There are many here who did not believe an opposition slate had a hope of winning in the last elections. But we did not do so badly, did we?

I have never been an opportunist but I have tried never to miss a chance to serve my country. There is another word for that but it is not "opportunism."

I believe that this is not the only responsible way for the Opposition to proceed, but the sensible way as well. The only way the Opposition will finally win elections in this country is by showing the people how good it is at helping to govern the country well, even in opposition, and not how good it is at just tearing down the government of the country and country along with it.

This is a time to build and not to keep on tearing down.

We may not like the design, we may not even like the architect, but we need to be a part of the construction so that somehow, somewhere we can make a difference for the better in how it all finally turns out.

I am stunned that thinking this way—believing that it is better to help our country than to hurt our political enemies—should be so grossly and unfairly misrepresented, and should invite such malice and reckless disregard for the truth, as to make me believe that there are people who would rather get even, than get this country going again. I cannot and I will not be like them.

And if that is opportunism, so be it.

But this I know: the place from which I can make the best difference is in the Senate. It was so before; it will be so again.

I believe that I have done a lot and achieved enough in my life so far. I have been through too much; I have seen too many things; and have learned a great deal under several administrations.

I know where I can be of most use to my country, and that is in the Senate, which was and ever shall be, with even just a few good men, the last best hope of our country.

INTERPELLATION OF SENATOR GORDON

At the outset, Senator Gordon inquired if it is the task of national leaders – whether from the Majority or the Minority – to try to achieve a semblance of national unity through the sharing of ideas. Senator Angara replied that it is the task of the administration, not the Opposition, to pave the way for unification as he added that the Opposition looks up to the national leadership.

Senator Gordon noted that in times of crisis, the President calls for a meeting with the Opposition to inform them on the course of action the administration would take and at the same time, to get the views of the Opposition.

Senator Angara agreed as he cited that like many agencies in the government, the National Security Council and the LEDAC are structured in a way that a membership is reserved for the Opposition. He recalled that he was among those who convinced then President Ramos to use LEDAC as a medium of Executive-Legislative cooperation. He emphasized that governance is not simply a unilateral act of administration, thus, the opinion and participation of the Minority should be accommodated. He further pointed out that although the Opposition's principal role is to fiscalize the administration, it does not mean that they destabilize or obstruct.

Senator Gordon observed that in the course of history, there had been many instances when the opposition were called upon to help the administration deal with crisis. He stated that in the case of England, Winston Churchill called on the opposition to join his Cabinet which was criticized by his partymates. *Mc*

Senator Angara added that in times of crisis, in whatever form of government, leaders try to pull together and find a common solution to a grave problem and the issue of disloyalty never arises. He cited the case of the Israeli cabinet where the Likud Party and the Labor Party are working together to solve the present crisis. He added that if there are no concerted efforts to act on the fiscal and financial issues, the country would come to a point where there would truly be a crisis and talks of a government of unity would be useless.

Senator Gordon stated that President Macapagal Arroyo called upon Senator Angara not to join her Cabinet but to come up with ideas to help resolve the current fiscal crisis.

Senator Angara related that during the Ramos Administration, as chair of the Committees on Trade and Commerce, and Economics, then Senator Macapagal Arroyo was part of the team that submitted the agenda for a national summit so that there would be a wider consensus. He added that three years after President Ramos came to power, there was a positive economic growth rate brought about by collaborative cooperation. In fact, he added that the stock market and real estate boomed and huge direct investments flowed into the country. Senator Gordon added that such cooperation sent a positive signal to the international community.

Adverting to the caucus between the Majority and the Minority in the Senate, Senator Gordon asked whether the President was just extending it by meeting with the Opposition through Senator Angara so that she could get their views. Senator Angara replied in the affirmative as he mentioned that at the opening of the Thirteenth Congress, the Opposition leaders were ready to assist the administration if it took the initiative.

Asked if there was an amount of immaturity on the part of the media in their misrepresentation of the meeting to which leaders of Congress were also invited, Senator Angara stated that it was part of growing up in a democracy. He observed that the Filipinos have been accustomed to confrontational and antagonistic politics and he has been trying to prove to the people that this

kind of politics has brought the country to a new low. Hence, he stressed, there is now an effort to build a new paradigm in politics that would produce actual and tangible benefits for the people. He noted that the political leaders have been perceived as destabilizers.

He stressed that the present Congress should build and help people achieve progress and prosperity.

Senator Gordon agreed to the observation of Senator Angara, underscoring that the Opposition should become "a loyal opposition" during times of crisis. He said that it is time the leaders prioritized the issues and not hamper the discussions on unification.

Senator Angara noted that part of the malaise in Philippine politics is the lack of ideology and platform among parties and the lack of political conviction among politicians. He related that he has been in politics for almost two decades under the same party, and in the past Congresses, he has tried to introduce some reforms in the political party system. He expressed hope that Senator Gordon, as chair of the Committee on Constitutional Amendments, Revision of Codes and Laws, would also highlight the need for party reforms so that the conduct of politics could be improved.

Citing newspaper reports that practically all sectors of the society seem to be in crisis, where there are endless investigations that never result in anything, Senator Gordon said that there is a sense of cynicism among the people, most of whom are going abroad to find a better future. He underscored the need to strengthen bipartisan support, noting that his privilege speech condemning the killing of media men and judges resulted in the apprehension and capture of the assassin of a judge but, unfortunately, it was followed by other assassinations in Aklan, Sulu and Quezon City.

Senator Gordon said that when President Roosevelt created the "New Deal," the administration and the opposition reacted to the crisis in a bipartisan manner, came out with so many solid bills including the Agricultural Adjustment Act that sought to provide economic

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relief to farmers, and talked about how they can best solve the problem. He asked whether the country is in the same situation.

Senator Angara believed that the country is in the process of achieving a national consensus; but it is far from having a common national purpose because clannishness, tribalism and ethnic loyalties still overwhelm the sense of national belonging. The country, he stated, would have a more stable democracy and progressive society once these obstacles have been overcome. In this case, he said that if politicians would show that they could transcend personal and partisan interests for the common good, media could also transcend their own parochial reporting interest and focus on the national purpose.

On another matter, Senator Gordon pointed out that Winston Churchill was berated by his colleagues for appointing Captain David Margesson as Chief Whip because the latter helped keep Churchill out of office and in dragooning the serried ranks of Conservative Members of Parliament to vote against many of his proposals on national defense, including his advocacy of a Ministry of Supply to enable industry to prepare for the eventuality of war; but Churchill looked beyond the personalities and went through the national goal of unity. He wondered whether the country's leaders are closing the doors of unification towards a better future by delving on the past and the present, not knowing where they would lead the country, and thus, creating a situation where the country knows what it does not want but never knows what it does really want. Because of this, he said that the media, the people, and institutions are being placed in a very sad position, not trusting the country's capability to get back into the game. He stated that unless the leaders start talking to each other about national interest, they would not be able to get the job done.

Asked about his meeting with President Macapagal Arroyo, Senator Angara said that he did not feel guilty about it because in a democracy, leaders sit down to discuss and find common solutions. Politicians, he pointed out, must show their relevance especially to the young generation of Filipinos who leave the country in

troops. Leaders who keep looking back to the past lose the future, he said.

Senator Gordon stated that he stood up because he feared the day when one senator cannot stand up and meet with the President because he is afraid of what media or his colleagues might say. People, he said, must judge their leaders by the totality of their aggravations and try not to make them insecure as to the kind of result they want to have for the country.

Senator Angara disclosed that he informed Senator Pimentel and former President Estrada about the invitation to sit down with President Macapagal Arroyo and that he told Senator Pimentel about the outcome of the meeting. He stated that he did not hide anything when media asked him about it because he was not ashamed that he met with the President. He said that while it is always natural to entertain some suspicion, excessive suspicion is already a defect of character.

Senator Gordon recalled that when the voting on the Ban Marcos resolution came up in the Constitutional Convention, he was invited by then Speaker Villareal and then President Marcos and he informed then Senator Manglapus that he was going to these meetings. He said that when leaders meet with those of the other party, it does not mean that they are selling themselves.

Senator Angara recalled that many people were surprised when he voted in favor of the Ban Marcos resolution in the Constitutional Convention because he was very close to then Defense Secretary Juan Ponce Enrile who had never interfered in his judgment.

INTERPELLATION OF SENATOR ENRILE

Senator Enrile agreed with Senator Angara that there is nothing wrong for any member of the Opposition to have social or official contact with the Majority and the government including the President, as he pointed out that in his maiden speech, he made it clear that the Opposition would cooperate with the Majority for the sake of the nation and the people as part of their duty and responsibility, and collaborate critically without surrendering their prerogatives as opposition

members to fiscalize, raise issues and see to it that rules are observed.

Further, Senator Enrile said that he does not find any irregularity or impropriety in Senator Angara's meeting with President Macapagal Arroyo. He asked whether the context of the meeting was the call for a government of national unity.

Senator Angara informed the Body that 80% of the conversation was on how a government of national unity could be made effective. However, he said that he was not able to get the details about what President Macapagal Arroyo meant by "government of national unity."

Asked whether he understood "government of national unity" to mean "administration of national unity," Senator Angara replied in the affirmative.

Senator Enrile pointed out that while a government of national unity is an offer of cooperation to the Opposition, the administration of national unity is an offer of co-option. Senator Angara said that he has made it clear that the Opposition would base their cooperation on a framework and that they would not abandon their role to fiscalize.

On whether the information that he was offered three cabinet level positions came from the Opposition or administration, Senator Angara replied that he was sure that it did not come from him; however, he surmised that media put a spin to their stories. He said that he did not want to speculate about the motives of the people.

Senator Enrile commented that the matter should be laid to rest, stating that each and every senator must be looked upon as a responsible leader. He expressed confidence in the capacity of Senator Angara to make a wise decision, and respect for his position.

Senator Angara stated that he is responsible to the people, to his conscience and he was not afraid to face his peers in the Senate.

INTERPELLATION OF SENATOR EJERCITO ESTRADA (J)

In reply to the query of Senator Ejercito Estrada (J) on why he was the only member of the Opposition who was called by President Macapagal Arroyo, Senator Angara replied that Senators Pimentel and Enrile were also called by the President.

Queried why the President did not call Senator Lacson or Senator Lim or him, Senator Angara replied that the answer to that question should come from the President herself.

Senator Ejercito Estrada said that should the President invite him to Malacanang, he would certainly accept.

Asked what his answer would be if the President called and offered the finance portfolio, Senator Angara replied that he could help more if he remained in the Senate because he believed that his expertise is in crafting legislation and policies.

INTERPELLATION OF SENATOR PIMENTEL

At the onset, Senator Pimentel expressed his appreciation to Senator Angara for addressing questions on the matter because he owed it to the people and to his colleagues to come clean as to what really happened during his reported meeting with the President. In this regard, he recalled that during their workshop at the Westin Philippine Plaza Hotel, he urged Senator Angara to ask the President to clarify what she meant by "a government of unity" since he and Senator Angara understood that they were not inclined to give up their role as members of the Opposition.

Senator Angara affirmed that indeed Senator Pimentel requested him to clarify what the President meant by "a government of national unity," which he tried to do.

INTERPELLATION OF SENATOR BIAZON

Recalling the workshop held by the elected LDP senators in Tagaytay after the 1992 elections

Senator Biazon said that Senator Angara issued a statement to the effect that if the LDP wanted to block the Ramos Administration they could do it since they were the Majority in the Senate; however, he said that Senator Angara stressed that the country needed a government that could focus on what was good for the country.

Senator Angara expressed his appreciation to Senator Biazon for recalling his statements in the LDP workshop.

Senator Biazon also recalled that then President Ramos asked him to support a bill declaring a national emergency and giving him a blanket authority to address the same. However, he said that he advised the President to revise the bill thus, an economic emergency was declared and certain laws, for instance, on bidding were suspended. He said that Senator Angara agreed to his suggestion.

Senator Angara affirmed the statements of Senator Biazon that the Senate recommended the declaration of an economic crisis and a one-year suspension of bidding laws in response to the acute energy problem.

On whether the country is in a situation similar to the last six months of 1992 and the first six months of 1993, Senator Angara replied that the Philippines is in a more serious problem. He noted that then, the budget deficit and debt repayment were not as huge as they are now and that 30% of the national budget was used for development whereas at present, hardly 10% is devoted to development projects.

Asked if he had the 1992 energy crisis in mind when he accepted the invitation of President Macapagal Arroyo, Senator Angara replied in the affirmative, as he clarified that he was aware of the difference between the 1992 energy crisis and the current fiscal crisis. He said that in essence, the time calls for the same level of cooperation so that the country could move forward.

INTERPELLATION OF SENATOR LIM

Senator Lim said that he was perplexed by the statement of Senator Angara that when he was

called an opportunist for exploring possibilities to help in solving the problems of the country, no one in the Opposition defended him. He asked how the Opposition could defend Senator Angara who had already stated that he had not done anything wrong.

Senator Angara clarified that he referred to the time he was away, during which, he was heavily criticized and no one, except some of his friends, defended him by assuring the public that he was not going to sell out the Opposition.

On his statement that no one has come to his defense, even those who owe their presence in the Senate to him, Senator Angara explained that from August to November of 2003, he organized the Opposition, getting together the PDP-Laban, PMP and LDP to form a unity organization. He recalled that despite the misgivings of many, the United Opposition succeeded in forming a senatorial slate that did fairly well in the elections with the likes of Senator Pimentel, one of its best bets, getting elected. He clarified that he was not expecting everyone to stand up and defend him but many malicious insinuations have been attributed to his meeting with the President. He expressed appreciation that Senator Pimentel took up the cudgels for him.

Asked if he was accusing anyone from the Senate Opposition, Senator Angara replied in the negative.

Senator Lim informed the Body that during the Opposition's caucus last Monday, everyone wanted to find out what the meeting in Malacañang was all about but Senator Angara was not available. He said that he had not heard of any adverse remark against Senator Angara because of his meeting with the President. He believed that it would be uncalled for anybody to dictate upon any Member as to what invitation to accept and with whom to speak. He asked for the cooperation of everyone in the spirit of unity because the Members were elected to serve the interest of the nation.

Asked on the difference between "government," "administration" and "country," Senator Angara explained that "administration" refers to the party in power which runs the

government; "government" refers to the permanent institution composed of the legislature, the executive and the judiciary; "country" is entirely distinct and different although government and administration are part and parcel of the country. He noted that the terms "administration" and "government" are sometimes used synonymously because in a parliamentary system, the administration is referred to as the "government of the day." What is important, he said, is that an elected official serves his country regardless of his party, bias, creed, or race; he serves the administration if he belongs to the political party in power; and, he serves the government as he is a part of it regardless of party affiliation.

Asked whether there is something wrong in the statement "My loyalty to my government ends where my loyalty to my country begins," Senator Angara replied that it makes sense because it indicates that the person's loyalty attaches to a country, not to the government which may change.

Senator Lim pointed out that a government should always work for the interest of the country and the people, hence, once it becomes unresponsive to the needs of the country and cannot protect the integrity, safety and lives of the people, the government ceases to respond to what good governance should be. He stressed that everyone in the Chamber could criticize the government or the administration because loyalty must always remain for and on behalf of the highest interest of the country and the people.

PARLIAMENTARY INQUIRY OF SENATOR ENRILE

Senator Enrile stated that he has a draft of a committee report signed by some Members on a very important legislation for consideration. Citing Section 24, Rule XI of the Rules which provides for the meetings and reports of the committees, he queried whether the Committee on Ways and Means had met to discuss, decide and submit a report on Senate Bill No. 1815 and House Bill No. 3174, saying that he did not receive any notice of such a meeting.

Senator Enrile pointed out that the Rules are intended for the protection of the Minority in every legislative chamber and are not made for

transitory or meaningless purpose. He suggested that the Body obey, follow and adhere to the Rules, precisely, for an orderly conduct of the proceedings.

Senator Pangilinan agreed that strictly speaking a committee convenes to decide as to whether or not a report is to be submitted for plenary deliberations. Citing his three years of experience in the Senate, he informed the Body that a committee report is routed to Members of both the Majority and the Minority for their signatures as what was done in the case of Senate Bill No. 1815. He said that the committee report bore the signatures of some Members of the Minority, for example, Senators Pimentel and Osmeña. He noted that a sufficient number of signatures had been affixed to allow the filing of the report and the deliberations on the floor.

On the point raised by Senator Enrile that there was no meeting held, Senator Pangilinan stated that the signatures affixed by majority of the senators could be considered a waiver of their desire to hold a meeting to decide on the committee report.

SUSPENSION OF SESSION

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

It was 5:12 p.m.

RESUMPTION OF SESSION

At 5:17 p.m., the session was resumed.

COMMITTEE REPORT NO. 3 ON SENATE BILL NO. 1837

(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1837 (Committee Report No. 3), entitled

AN ACT EXTENDING THE
UTILIZATION PERIOD OF
THE AGRICULTURAL COMPETI-
TIVENESS ENHANCEMENT FUND,
AMENDING FOR THIS PURPOSE

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SECTION 8 OF REPUBLIC ACT NO. 8178, ENTITLED "AN ACT REPLACING QUANTITATIVE IMPORT RESTRICTIONS ON AGRICULTURAL PRODUCTS, EXCEPT RICE, WITH TARIFFS, CREATING THE AGRICULTURAL COMPETITIVENESS FUND" AND FOR OTHER PURPOSES.

Senator Pangilinan stated that the parliamentary status was the period of interpellations. He informed the Body that Senators Enrile, Angara, Osmena, Ejercito Estrada (L), Villar and Defensor Santiago in that order, have made reservations to interpellate on the bill.

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

INTERPELLATION OF SENATOR ENRILE

(Continuation)

Resuming his interpellation, Senator Enrile asked why the bill was changing the original purpose of RA 8178 such as the funding for irrigation, construction of farm-to-market roads, post-harvest equipment and facilities, credit, research and development and other forms of assistance and support to the agricultural sector when the law's objectives had not yet been accomplished. Senator Magsaysay clarified that while some of the objectives of the ACEF were accomplished in the last four years, Senate Bill No. 1837 seeks to extend the utilization period of the Fund because a big bulk of it has not been used. Moreover, he said that the bill proposes to make the ACEF specifically accessible to cooperatives, corporations and small- and medium-enterprises engaged in food and agriculture-related enterprises through no interest-bearing loans since the fund is a support for competitiveness enhancement. Furthermore, he explained that funding for farm-to-market roads and irrigation are already addressed by the agriculture budget in the General Appropriations Act.

Stressing that he has no objection to the proposed extension of the Fund, Senator Enrile suggested that rather than making it part of the

general fund, the Fund should be made a trust fund for the agricultural sector to help small farmers.

Senator Magsaysay clarified that Senate Bill No. 1837 does not change all the original objectives of the law such as funding for irrigation and farm-to-market roads but would give the Executive Committee the flexibility to concentrate on agri-based production and processing activities by setting aside 85% of the Fund for these purposes. He conceded that while big companies such as the San Miguel and Fortune Tobacco Corporations are considered organizations engaged in agri-based production, micro-enterprises, farmers cooperatives and SMEs which supply the big corporations would have more access to the ACEF. For instance, he said, the big agri-based production companies tap poultry and hog raisers that apply for the ACEF because they have a market but do not have the equity to comply with the requirements of the processors or buyers.

Senator Enrile opined that the new direction was not borne out by the text of the proposed amendment which would seem to favor export industries. He stressed that the Fund was intended to be utilized by small rural farming families dislocated by the Philippines' participation in the globalization effort of the World Trade Organization rather than by highly capitalized, export-oriented big enterprises.

Senator Magsaysay argued that in fact the provision would help increase the productivity and export competitiveness of cooperatives, associations, farmers groups and SMEs. He expressed openness to retaining the original text of the law pertaining to the ACEF. But he pointed out that based on the practices of the past four years, the Fund would continue to be used as interest-free loans to finance various projects through groups or associations that have established track record in order not to exhaust the fund.

Asked to explain the post-production and processing activities, Senator Magsaysay replied that post-production activities cover a broader scope of post-harvest activities where the farmer is seen as the producer. He added that the two

terms were included to explain that farmers have to put some additional value on their products before these could be sold so that they could get more return on the same.

Senator Enrile pointed out that wheat could not be processed without irrigation or roads to transport the grains. This, he noted, is why the original law allocated funding for irrigation, farm-to-market roads and credit facilities for agricultural supplies. He then asked why these objectives were being changed.

Senator Magsaysay agreed that irrigation is the most basic in agriculture, that is why the National Irrigation Administration (NIA) has budget of P4 billion in 2003 that was augmented by P3 billion from international grants. He said that the ACEF had turned over to Quedancor, the financing arm of the Department of Agriculture, P1 billion to be lent out to farmers at a low interest rate of 9.5% per annum.

Senator Enrile lamented the fact that although the Fund is supposed to be used for irrigation, his province, Cagayan, is getting a hard time getting money from the NIA for the repair of its irrigation systems. He said that Cagayan is a rice-producing province and its people depend mostly on the production of rice, corn and native tobacco. He said that the NIA cannot release the P150 million budget requested by the province for said purpose because supposedly there is no money. Arguing that the Fund should not be diverted and used to support the universities, he asked Senator Magsaysay if he would be amenable to deleting paragraphs (1) and (2) on page 2 of the bill and retain the original concept of the Fund.

Senator Magsaysay pointed out the need of the universities to upgrade their laboratories, infrastructure and training of agriculturists so that they could comply with the more modern practices like bio-technology and horticulture, among others. He explained that said provision was a product of consultation between the Committee and other senators.

Senator Enrile said that instead of using a broad term "qualifying universities," the bill should identify certain universities that are known in

the area of agriculture, like the U.P. Los Baños and the Central Luzon State University in Nueva Ecija. Senator Magsaysay expressed willingness to consider amendments that would identify the universities to be supported by ACEF.

Asked what marketing support mechanisms are intended to be undertaken in the case of hogs, poultry, rice, corn, peanuts and asparagus, Senator Magsaysay replied that the provision implies support for public and wet markets that are losing money and customers due to the dilapidated structures, as well as slaughterhouses that have not complied with the requirements of the National Meat Inspection Law. He added that the support is also intended for LGUs and cooperatives that have market support activities.

Adverting to Section 2, Senator Enrile noted that the proposed amendment is constitutionally defective because Congress, in effect, would be delegating to a bank its prerogative to draw up a plan for the utilization of the people's money without any standard. Senator Magsaysay replied that the provision merely states that the Fund that is collected from the ACEF should go back to ACE Fund 183 which, in turn, goes to a government bank for disposal.

Adverting to Section 2, Senator Enrile asked about the purpose of the plan.

At this point, the Chair opined that the constitutional objection of Senator Enrile could be addressed if standards for the disposition of the funds would be provided. It added that this could be done during the period of amendments.

Senator Enrile agreed, stressing that the provision should define the function of the bank and the Department of Agriculture with respect to the utilization of the Fund. He stated that in every delegation of power in the law, the phrase "Not inconsistent with the provision of this Act" is always used. Relative thereto, he said that he had just reviewed one of the many laws enacted by Congress, the EPIRA, where Congress, in effect, surrendered to a body the power to legislate far beyond the confines of said law.

To the Chair's proposal that the Committee set more specific standards concerning the provisions

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on page 2, lines 1 to 12, Senator Magsaysay expressed willingness to do it at the proper time.

As regards Sugar ACEF, Senator Enrile noted the itemized amounts released totaling P599,543,000, P239 million of which was utilized supposedly for the farm mechanization tractor pool. He asked where the tractor pool is and how the tractors are being utilized. Senator Magsaysay replied that the tractors are in the 29 milling districts all over the country. He affirmed that there are 150 farm tractors and 346 other farm implements.

Upon further queries, Senator Magsaysay informed the Body that there are over 390 hectares of sugar farmlands in the country. On whether they have farm implements, he explained that implements are delivered proportionately to the concerned areas; for instance, Negros Occidental and Panay were given 80 tractors because together, they produce more than 50% of the sugar output. He added that an 80-120 horse-powered tractor could plow one hectare in 10 hours.

Senator Enrile opined that if the tractors plow 150 hectares a day, it would not plow 300,000 hectares in a year.

Senator Magsaysay clarified that the tractors are assigned to small farmlands that do not have tractors. He said that big farmlands have their own tractors.

On the matter of the 346 farm implements, Senator Magsaysay stated that these are the harrows which are additional accessories connected to the tractors. He added that the heavy equipment are the payloaders, trucks, graders, backhoes and bulldozers.

Asked if post-harvest equipment are for the sugar industry, Senator Magsaysay replied that these are capital equipment for sugar mills.

As to the irrigation facilities, Senator Magsaysay stated that these are pumps, engines and deep wells.

As regards the 29 service vehicles, Senator Magsaysay stated that they are used to haul

tractors and other farm implements, and they are assigned to the milling districts.

Asked why the sugarmills of Bukidnon, Balayan and Bais are not included in the list, Senator Magsaysay replied that his list states that Bukidnon has 18 tractors and 34 farm implements. Senator Enrile clarified that he was referring to paragraph 3 of the report. He manifested that he would introduce amendments at the proper time.

INTERPELLATION OF SENATOR ANGARA

At the outset, Senator Angara clarified that ACEF was originally not intended to enhance the sugar industry. He recalled that the sugar shortage in the year 2000 jacked up the domestic price of sugar; and the millers as well as the consumers demanded that the government import sugar to fill up the shortage. He said that to support the domestic market, the sugar industry and the public agreed to import and to ensure that the price in the domestic market would not collapse, a levy mechanism was imposed.

Senator Magsaysay informed the Body that the levy was based on E.O. No. 87 issued by then President Estrada which amounted to P1.5 billion — P600 million went to the district planters and millers, P400 million to the producers' margin and P500 million to the National Treasury.

Senator Angara stated that the reason for the allocation of almost P1 billion to the sugar industry was due to its inefficiency. He explained that the Philippines produced sugar at P0.19 a pound while Brazil produced it at \$0.09 a pound and Australia \$0.10 a pound. He stated that it was fortunate the Philippines had a protected market in the U.S. because of an assured quota but taking away the quota would put the Philippines at the mercy of the sugar producers in the world market. He added that the Fund that was set aside was used to enhance competitiveness in the sugar industry. Senator Magsaysay agreed, adding that the industry was saved from virtual collapse when 500 metric tons of sugar that cost \$0.05 a pound was imported.

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Senator Angara informed the Body that the Department of Agriculture, through the mechanization program, imported tractors that were made available to the small landholders. He added that several tissue culture laboratories all over the country produced a high yielding variety of sugar.

Senator Magsaysay agreed as he stated that the information is also part of the committee report. He added that he has in his possession a copy of Senator Angara's modernization program while he was still agriculture secretary.

Senator Angara clarified that the book *Action Plan for the Philippine Sugar Industry* was produced by the sugar industry itself with the support of the Department of Agriculture. He added that the sugar industry was made more competitive by increasing production within a shorter period -- production increased to 300,000 tons within three years thereby advancing the target by three years.

Asked on the amount of the total sugar production to date, Senator Magsaysay replied that it is 2.3 million metric tons. He added that the total production before the program was launched was only 1.8 metric tons.

Senator Angara surmised that the tangible increase in production was the result of the program, the components of which were the production of high-yield seeds, irrigation as well as farm-to-market roads. Senator Magsaysay agreed, adding that the direct intervention of the national government through the Department of Agriculture resulted in a high sugar output.

Noting that there is going to be a drastic change in the utilization and purpose of the funds, Senator Angara asked if there is a way for the technical experts from the DA to specify the activities for which the funds would be used. Senator Magsaysay gave assurance that the committee would be open to tightening the definitions and setting specific standards.

At this juncture, Senate President Drilon relinquished the Chair to the President Pro Tempore Flavier.

Senator Angara expressed agreement to the proposal to rechannel funds away from irrigation and farm-to-market roads which, he noted, are established items in the annual budget of the Department of Agriculture. He said that the activities that the Fund should cover do not have appropriation or if they are, it is inadequate. He stressed that the aim is to develop new products or commodities, and service or enhance existing ones.

Going over the list of projects awarded and funded by the ACEF, Senator Angara hoped that there is small funding for projects like cut-flower growing in Cavite, Mt. Banahaw, Nueva Vizcaya and Aurora. He said that cut-flower growing would never attract funding but it should be stimulated because of its proximity to market and favorable conditions in the aforesaid areas.

Senator Magsaysay welcomed the proposal, adding that the Executive Committee has been trying to lower the loan to below P15 million to accommodate small- and medium-enterprises. He added that ACEF has awarded loans to small cooperatives as start-up capital. He stated that the Committee would welcome a cap on the loan.

Senator Angara opined that the grant portion of the Fund should not be eliminated since it is the primary motivation for setting the Fund at a certain amount. He stated that the original plan was to give an outright grant or assistance. However, he said, the assistance is being restructured into a loan. Senator Magsaysay stated that the Committee would accept an amendment to retain the grant.

Senator Angara stated that he opted not to give the banking institution the power to decide who to give to and what to give since the Fund is intended to be quick-disbursing and fast-moving. He said that the purpose is still to stimulate production. He disclosed that upon his representation, Central Bank granted the seven-year money to agriculture because, as he pointed out, agricultural products such as palm trees do not bear fruit until the seventh or eighth year. He asserted that money should be extended longer than seven years to afford borrowers a longer

repayment period as some agricultural or industrial trees such as acacia have a gestation period of 10 years.

Stressing the need to retain the flexibility that the Fund allows, Senator Angara feared that giving it to a regular bank like the Landbank or DBP could return it to a very tightly controlled and inflexible lending procedure that would defeat the purpose of the Fund.

Senator Magsaysay manifested openness to the proposal to make the Fund a continuing self-sustaining fund. He said that the grant could be in the form of equity so that ACEF would be a part-owner and could oversee the operations similar to the California Public Employees Retirement System that is funding big companies such as Sun Microsystems.

Senator Angara stressed that the Body should not allow the disbursement of funds following the regular banking procedures because this could completely curtail flexibility. He expressed the view that Quedancor might be an option.

On another point, Senator Angara noted the bureaucratic and protracted procedure in applying for a grant, especially since it starts on the regional level and involves many people in the processing thereby wasting the value of the product or service.

Agreeing that the processing of loans takes three to four years, Senator Magsaysay said that he would consider proposals putting a time frame on processing loans. In fact, he revealed that since he became chairman of the Committee on Agriculture two years ago, the Committee has been trying to shorten the lending process to three to six months.

Senator Angara said that after almost a decade, it was time to rethink the uses and purposes of the Fund, to review the processes and procedures in applying for it, and to lay down standards for lending the money in order to avoid replicating the funding provided in the General Appropriations Act. He also stressed the need to pinpoint projects that the banking and other established credit institutions would not touch but should be supported financially. This way, he added, more

people would benefit from the Fund instead of providing very big amounts only to certain projects. He said that the principal criterion should be that the Fund should be channeled to highly selected projects rather than just replicating general appropriations funding or commercial loans.

Senator Magsaysay revealed that, in fact, there were a lot of applications for hog- and poultry-raising but these have been turned down since both sectors are already almost 100% self-sufficient; instead, preferences are being given to more high-value crops like oranges in Nueva Vizcaya and carrageenan-processing in Cagayan de Oro City.

Relative thereto, Senator Angara recommended cut-flower and vegetable growing in Nueva Vizcaya, Aurora and Quirino where much of the "Baguio vegetables" are actually grown, even as he stressed the need to look beyond the traditional farming areas and traditional crops in order to help stimulate countryside development and save the money for importing vegetables and fruits which could easily grow in Tagaytay, Lipa or Mt. Banahaw. He cited his demonstration farm which grows all kinds of lettuce even if he is not a farmer and have not received a single cent from the ACEF.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1837

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

COMMITTEE REPORT NO. 4 ON SENATE BILL NO. 1745

(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1745 (Committee Report No. 4), entitled

AN ACT PROVIDING FOR
COMPENSATION TO THE
VICTIMS OF HUMAN RIGHTS
VIOLATIONS DURING THE
REGIME OF FORMER PRESIDENT
FERDINAND MARCOS, ⁴

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DOCUMENTATION OF SAID VIOLATIONS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

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

Thereupon, the Chair recognized Senator Pimentel, Sponsor of the measure, and Senate President Drilon for his interpellation.

**INTERPELLATION OF
SENATE PRESIDENT DRILON**

At the outset, Senate President Drilon manifested full support for the measure that failed to pass during the last Congress because of lack of time. He expressed hope that the period of interpellations could be terminated that afternoon so that the Chamber could pass the priority measure with dispatch.

Adverting to the definition of "human rights violations" in Section 3 of the bill, Senate President Drilon asked whether the phrase "shall include, but not limited to" refers to the acts enumerated on page 2 starting from line 23 onwards.

Senator Pimentel expressed the view that the phrase refers to the human rights violations rather than to the dates. However, he recalled that during the interpellations, it was suggested that the human rights violations committed prior to the actual declaration of martial law such as when the privilege of the writ of *habeas corpus* was suspended on August 21, 1971, should be included in the coverage of the law. He affirmed that the intention was not to limit the acts or omissions to those which were enumerated because the kind of violations that would be compensated for were not clearly defined in the bill. He suggested the elimination of the phrase. Senate President Drilon concurred in the suggestion since the definition is comprehensive enough as to make it unnecessary to allow for other acts.

Replying to a query on page 3, line 17 of the bill, Senator Pimentel agreed that causing the unjust or illegal take-over of a business is, strictly

speaking, not a human rights violation as this would come under the broad rubric of economic dislocation or violation of the economic rights of the person.

Senate President Drilon observed that the provision would allow several entities to file various claims, such as Meralco for what it claims as unjust and illegal take-over of ABS-CBN, the Ortigas Group of Companies for unjust compensation for a property along Meralco Avenue, and the Jacinto Group of Companies for unjust take-over of Iligan Steel. Senator Pimentel expressed the belief that it is not the business enterprise but the owner of the business itself who has the right to file a claim. Relative thereto, he recalled that Senator Lim had cited the case of Dr. Vicente Tan who was imprisoned with his wife and whose properties were deeded under duress to some people close to the Marcoses. Noting that the idea was to compensate them also for economic dislocation aside from imprisonment, he pointed out that the point system used in determining the range of compensation under Section 16 of the bill is not joined by the word "and," thus, they could stand by themselves individually. He stated that unless there is a proposed amendment to this provision, those who had been harassed economically would be given points or compensation based on the categories and guidelines enumerated in the bill.

Based on the two points to be awarded by the Board, on whether the claimant would be barred from making additional claims before an appropriate court, Senator Pimentel replied that there should be a documentation of evidence to sustain the claim. He said that if the claim contains everything that had been taken away from the person who had been economically harassed, that would preclude any other complaint before any other tribunal as it might give rise to undue advantage on his/her part. He expressed the view that the grant of points that would be the basis for calculating the compensation would be the end of the claim.

Senate President Drilon stated that he can understand the difficulty of Senator Pimentel as far as this point is concerned because the stockholders of the firms sequestered by the PCGG could claim their businesses were illegally

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PCGG could claim their businesses were illegally taken over. He added that the board might have difficulty in handling the claims. Senator Pimentel noted that the PCGG came into existence after the dates set forth in the bill.

Relative thereto, Senate President Drilon stated that the sequestered businesses were taken over during the martial law period. Senator Pimentel agreed as he expressed doubt that the claims against PCGG can stand on legal grounds. However, he said that conceivably, under the bill, a case can be filed if the confiscation was done forcibly during the martial law years.

Asked if the board would have jurisdiction over the claim, Senator Pimentel replied that one of the duties of the board is to ensure that the claims are valid. He added, though, that determining the validity of a contested economic claim is a long process and the board has a life of only one year.

On whether the jurisdiction of the board is exclusive, meaning, any claim for compensation for violation of human rights cannot be filed before other bodies, Senator Pimentel replied that if the claimant wants to limit the claim to a part of the \$200 million, then he/she must file the claim before the board. He added that if the claimant wants to file another case for compensation relative to the other assets of the Marcoses, then the courts of original jurisdiction could handle these claims. He said that the claimant is free to choose which venue to take, but considering the thrust of the bill, amendments can be incorporated to prevent forum-shopping.

Asked if the board would have exclusive jurisdiction on claimants who expect compensation from the \$200 million, Senator Pimentel clarified that the Human Rights Commission has jurisdiction to compensate the victims of human rights violation; however, he said, under the bill, the board would be attached to the Human Rights Commission but not under its direct control. He admitted that conceivably with such an administrative board, a difficulty could arise in case a decision of the board is challenged because under the doctrine of exhaustion of administrative remedies and by precedence, the appeal should be lodged with the Human Rights Commission before

it could be brought to any judicial tribunal. Senate President Drilon suggested that the matter be clarified during the period of amendments.

Senate President Drilon asked whether a situation where the police authorities enforced an order of a duly constituted authority like the National Labor Relations Commission could give rise to a compensable claim under Section 3 (a) (5) (h) which speaks of violation of the rights of labor by preventing and dispersing peaceable strikes. Senator Pimentel stated that under the provision, to be compensable, the dispersal has to be patently illegal. Obviously, he said, there is a presumption of legality in the NLRC order to disperse an illegal demonstration or strike. He added that the matter of the illegality of the demonstration or strike has to be established first. He affirmed that at the proper time, the provision would be clarified to cover such a situation.

Apropos the last sentence of Section 4, "This disputable presumption is subject to validation and may be contradicted or rebutted by competent evidence," Senate President Drilon queried if the U.S. Court has completed the process of validating the claims of the 9,539 claimants. Senator Pimentel replied that he had no knowledge thereof. He stated that the only information he has is that the Hawaii court had issued a decision setting aside a certain amount for compensation to be awarded to the class suit plaintiffs.

Senator Pangilinan recalled that as Chair of the Committee on Justice and Human Rights in the 12th Congress that heard the bill, and to the best of his recollection, the lawyers of the 9,539 claimants submitted to the Hawaii court voluminous documents to establish their claims.

At this point, Senate President Drilon noted that in House Bill No. 2962, Section 4 states that the process has already been completed in the United States. In view thereof, he asked why the Body was still allowing a process to dispute the finding of the U.S. court and not accept it as a valid judgment.

Senator Pimentel stated that the point raised should be looked into because a decision of a foreign tribunal has to be accorded some respect.

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He stated that if there are challenges to the decision, properly and seasonably raised, it should give rise to an opportunity for those opposing the claims to raise issues regarding their validity, otherwise, the board should consider the "disputable presumption."

As to what kind of "competent evidence" should it be, Senator Pimentel stated that it is possible that a claimant could use two or three names; moreover, the board has to look into whether or not the claimant was subjected to torture by the Marcos regime. Senate President Drilon stressed that these matters have to be clarified so that the board would know the intent of Congress when it processes claims.

As regards Section 5, Senate President Drilon stated that the way he has read it, the provision covers not only cases where there is a final judgment but also cases where a judgment is secured while the board is in existence. He asked whether the phrase "any person who has secured or can secure" covers future decisions. Senator Pimentel said that the interpretation is sustained all the more by the phrase "even if the said judgment has not yet become final and executory."

On the concern that the particular provision would find difficulty from a constitutional point of view because it is a rule found in the Rules of Court and some questions on separation of powers could be raised, Senator Pimentel said that the phrases "or can secure" on line 2 and "even if the said judgment has not yet become final and executory" on line 4 could be deleted at the proper time.

On whether the amount of compensation awarded by the court would be binding on the board given the points system, Senator Pimentel stated that the matter would pose a grave problem for the board. To address this concern, he stated that Section 5 must be revised to clarify that the judgment of the court should have been secured much earlier than the composition of the board and directed towards other assets of the Marcoses other than the US\$200 million which is primarily intended for compensation for the victims of human rights violations, particularly those who have been identified in the Hawaii

court as the principal claimants. As an exception to the general rule, he said that it could be provided that the recovery of Marcos assets would go to land reform. He added that it has to be clarified that some judgments of the courts on human rights violations may not fall under the bill.

On whether the US\$200 million would be excluded from any execution that may arise from a final judgment rendered by the regular courts, Senator Pimentel believed that it might be the only way out of the situation; but thereafter, he said that the decisions of the board would have to be based on the points system.

Asked whether Section 5 excludes any final judgment in favor of a human rights victim rendered by a foreign court even if all the elements under the Rules of Court can be shown to have been complied with, Senator Pimentel replied that the award of damages must come from a Philippine court. The intent, he pointed out, is to preclude any claims that are filed anywhere in the world which put a lot of burden on the government, and to turn away any claims that are filed elsewhere in relation to the US\$200 million. He said that he could not care less if there is a claim filed in a foreign tribunal that is directed at other assets of the Marcoses.

Senate President Drilon pointed out that there was a human rights violation case prosecuted by former Senator Saguisag who even requested his assistance to get records from the Department of Labor and Employment to be submitted as evidence in the case in the United States. While this is a specific example of a foreign judgment in favor of a human rights victim, he asked whether it is fair to exclude the victim from executing a claim against the US\$200 million fund. Senator Pimentel stated that he was not sure whether it is fair but it should be ensured that the US\$200 million would not be made to answer for claims that are not envisioned in the bill.

Senate President Drilon said that the claim falls squarely within the concept of human rights violation and due compensation. He suggested that these instances be given closer examination.

Senator Pimentel pointed out that any person who does not fall under Sections 4 and 5 can file a

claim under Section 6. He said that he does not want to pass a law that would cause injustice to other valid claims. He gave assurance that the Committee would look into the incidents cited by Senate President Drilon.

On whether the board would be compelled to execute full judgment if the judgment is final and valid under Section 6 and the award for damages has become final but not executed, Senator Pimentel replied in the affirmative.

Asked what would happen to the point system under Section 16, Senator Pimentel said that the point system may be eliminated or both intentions could be harmonized.

On whether the second paragraph of Section 6 contemplates a case where the board can deny the claim of a claimant who would be proven to be not entitled to any damages, notwithstanding his having been processed in the Honolulu court, Senator Pimentel replied in the affirmative. If the claimant is not satisfied with the denial of the claim, he said that the claimant should be allowed to appeal to some higher body, a matter that should be clarified in the bill.

Asked whether the order of beneficiaries to be followed is the one enumerated in Section 7, Senator Pimentel said that the best way to tackle the problem is to refer to the law on succession in the Civil Code.

On the observation that the word "gravity" in Section 8 is too vague and broad to set any standard or guide, Senator Pimentel said that the concern was valid and the only justification where one can calibrate the gravity of the human rights violation is provided for under Section 16.

Asked whether the statement, "The judgment of the Swiss Federal Court has become final and executory and is now disposable," is a statement of fact or policy, Senator Pimentel stated that the records of the Hawaiian court decision would bear out the conclusion that the judgment has become final and executory.

Senator Drilon expressed the view that Section 9 of the bill simply points the source of compensation which is already in the control of the

Philippine banking system, thus, whether or not the judgment has become final would be immaterial. To the suggestion to delete the provision, Senator Pimentel agreed.

On another matter, Senator Pimentel expressed willingness to accept an amendment at the proper time providing for the peso equivalent of US\$200 million in Section 10 of the bill in order to recognize the peso as the legal tender for the award of compensation.

On whether the judgment of the board would be the final disposition of the claims for human rights violation, Senator Pimentel opined that there should be a determination of what Marcos asset is being addressed in a case filed in court. He reiterated that the basis of the bill was the US\$200 million allocated from the amount that the Swiss government gave to the Philippine government, stating that a provision should be added that the peso equivalent should be as of the date of the approval of the bill.

Recalling Senator Pimentel's reply to Senator Defensor Santiago's query that the right to claim compensation should not be circumscribed by time and the amount to be awarded to the victims should not be limited to the US\$200 million, Senate President Drilon asked whether this would mean that a human rights victim can file a claim in other courts beyond the US\$200 million. Senator Pimentel replied in the affirmative.

On whether a judgment can be executed on the remaining balance of the US\$650 million which is now in the possession of the government, Senator Pimentel expressed doubt that such could be done as the remaining amount of US\$400 million would be allocated to the agrarian reform program.

Senate President Drilon said that the provision should be clarified because people reading the Journal may interpret this to mean that a claim could be filed on the balance of US\$400 million, which, if allowed, would be an amendment to the agrarian reform law.

Senator Pimentel agreed to the observation even as he emphasized that the US\$200 million is the only amount removed from the purview of all recovered Marcos wealth allotted to agrarian reform. But he clarified that a court judgment could be satisfied from sources other than the remaining balance of the \$658 million turned over to the Philippine government by the Swiss court.

On another matter, Senate President Drilon noted that the Board composed of the chair and four appointive members has the same functions as that of the Commission on Human Rights under the Constitution. He asked whether this can be done by legislation. In reply, Senator Pimentel expressed doubt that Congress could remove a power vested by the Constitution in an entity and transfer the same to another.

Senate President Drilon concurred in the statement, pointing out the analogy of creating a special Comelec for the ARMM election which is not allowed. Aside from the powers of the Board, he added, the provision on page 8 of the bill attaching the board to the Commission on Human Rights which the Constitution mandates to be the primary agency tasked with protecting human rights but not under the Commission makes the whole matter confusing. He suggested that the provision be recast during the period of amendments. Senator Pimentel gave assurance that he would try his best to improve the provision.

Asked if he honestly believed that the board would be able to finish its work in one year, Senator Pimentel conceded that if the board would be saddled with so many functions especially in determining the extent of economic deprivation and harassment of people, the board would be unable to complete its job in a generation and may end up like the PCGG. He agreed with Senate President Drilon that the organization of the board alone might take a year.

Stating that the source of funding for the board would come from the US\$200 million, Senate President Drilon commented that the longer the board exists, the more funds it would need which would further lessen the money for

the compensation of human rights victims. Senator Pimentel admitted that the said provision should also be clarified.

In closing, Senate President Drilon expressed the hope that during the period of amendments, Senator Pimentel would address the concerns he raised in order to have a clearer law.

Senator Pimentel gave the assurance that the concerns raised by Senate President Drilon would be addressed very clearly to make the bill a reasonable law wherein the rights of the claimants can be adequately advanced and decided within a reasonable period of time.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

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

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1745

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

CHANGE OF REFERRAL

Upon motion of Senator Pangilinan, there being no objection, the Body approved the change of referrals of the following:

1. Senate Bill No. 758, from the Committee on Civil Service and Government Reorganization to the Committee on Constitutional Amendments, Revision of Codes and Laws as the secondary committee; and
2. Senate Bill No. 1749, from the Committee on Public Services to the Committee on Science and Technology as the primary committee.

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ADJOURNMENT OF SESSION

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

It was 7:30 p.m.

I hereby certify to the correctness of the foregoing.


OSCAR G. YABES
Secretary of the Senate
16/11/04

Approved on November 17, 2004