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SESSION NO. 44

Wednesday, December 8, 2004

**THIRTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 44
Wednesday, December 8, 2004

CALL TO ORDER

At 3:00 p.m., the Senate President Pro Tempore, Hon. Juan M. Flavier, called the session to order.

PRAYER

On behalf of Sen. Ralph G. Recto, Sen. Richard J. Gordon led the prayer, to wit:

Almighty God, who during Your brief life on earth went about doing good to all men and women, be merciful to us in this hour of special need.

Divine Healer, Your tender heart was ever moved at the sight of pain and affliction. We beg of You, if it be Your holy will, to help us regain our strength in this time when our countrymen are still reeling from the effects of typhoons Winnie and Yoyong and two others.

Send forth healing to all who are suffering, whether in mind or body.

Grant each of us that peace of mind which You alone can give.

We also ask You, Almighty God, to pour into our minds the spirit of Your wisdom and justice, so we could better achieve in our session today the goals which we have set for the benefit of our countrymen.

Amen.

DEFERMENT OF THE ROLL CALL

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the roll call to a later hour.

DEFERMENT OF THE APPROVAL OF THE JOURNAL

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the consideration and approval of the Journal of Session No. 43 to a later hour.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, there being no objection, the session was suspended.

It was 3:02 p.m.

RESUMPTION OF SESSION

At 3:03 p.m., the session was resumed.

PRIVILEGE SPEECH OF SENATOR REVILLA

Availing himself of the privilege hour, Senator Revilla delivered the following speech:

IN THE EYE OF THE STORM
(A Salute to the Filipino Spirit)

Nakatayo ako ngayong hapon dito sa inyong harapan para iparating ang isang kuwento na ibinilin sa akin na ibahagi sa bawa't Pilipino.

Ito po ang kuwento nina Aling Rosa, Mang Ric, Boyet at Leslie at ng kanilang mga kapitbahay.

Nag-umpisa po ang kuwentong ito noong madaling araw ng Linggo, ika-5 ng Disyembre, 2004. Tumulak po ako, kasama ang ilan sa aking mga staff sa bayan ng Real, Quezon. May dala po kaming apat na truck ng relief goods para ipamahagi sa mga

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nasalanta at para inspeksyunin ang mga nasirang inpraistruktura sa rehiyong iyon.

Dumating kami sa Siniluan ng alas-10 ng umaga. It was a very bright and sunny day na para bang walang bagyong nagdaan. But this self-assurance did not last long.

Nang matunton namin ang Barangay Maragondon sa Real ay unti-unti na naming nakita ang paghagupit ni Winnie at Yoyong. Unti-unti nang dumilim ang paligid, unti-unti nang umihip ng malakas ang hangin, at nag-umpisa nang umulan.

Dito ko nakilala si Mang Ric. Siya raw ay taga-Barangay Tignuan na may 5 kilometro raw ang layo sa kinaroroonan namin. Dinala siya sa Maragondon sa paglikas niya, at iniwanan kung ano man ang natitira sa kanyang tahanan, kabuhayan at pagmamay-ari. Ilang minuto pa lang ang lumilipas, ibinalita sa kanya na nasa Calamba na pala ang kanyang asawa at anak na parehong malamig na bangkay na.

Sinamahan pa rin niya kami papunta sa Tignuan. Everything was quiet. We have been walking for three hours on a foot-wide path when suddenly, one of my staff shouted, "Bato! Bato!" Biglang nagkaroon ng rock fall. Akala ko po ay katapusan na naming lahat. Sabay-sabay kaming naghanap ng kukublihan para iwasan ang mga naglalakihan at rumaragasang mga bato. Nang matapos ang rock fall, nakita namin na sa kasawiang palad, ay tinamaan pala ang kasama naming reporter na si Jun Lingkoran. At siya po ay tinamaan ng ga-ulong bato sa kanyang paa.

Binuhat naming halinhinan si Jun papunta sa isang malapit na kubo para mabigyan siya ng pangunang lunas. Nalaman na lang namin pagkatapos na sa ilalim pala ng lupa na kinatatayuan namin at kinatitirikan ng kubo ay may ilan pa palang mga tao na nakabaon na at hindi pa nahuhukay.

Palitan naming binuhat si Jun ng ilang kilometro papunta sa station ng army.

Doon ay may naghihintay nang helicopter para sunduin si Jun papunta sa Maynila. Nang makarating kami roon ay tinulungan kami ng mga tauhan ng AFP. Isinakay si Jun sa helicopter, at inaya na ako ni Jun para sabay na kaming makaalis sa lugar na iyon. Sobrang peligro raw po kung magpapatuloy pa ako papuntang Real at kahit si Mang Ric nga ay pinakiusapan na akong tumigil muna.

At this moment, a decision had to be made. On my right, was Jun Lingkoran and a chopper. On my left, was Mang Ric, and an exodus of people whose faces can never be painted by a Michaelangelo nor described by the most powerful words of Pulitzer Prize winners.

On my right was my ticket back to my home, to my family and to my loved ones. On my left were my staff who I will be leaving behind if I left, and an uncertain road where the only thing certain were the cries and pleas for help of our brothers and sisters victimized by the calamity.

There was no choice, really. The choice has already been made for me. At that moment, it was the point of no return. I had to stay behind.

Kasama si Mang Ric, dalawang oras pa kaming nagpatuloy maglakad sa hanggang baywang na putikan at baha habang patuloy na bumubuhos ang ulan.

Sa aming paglalakad, ilang daan din ng ating mga kababayan ang aming nakasalubong. Lahat sila ay umiiyak at nagsusumamo para sa tulong dahil ilang araw na silang basa at gutom.

Ako ay lubusang nahabag nang lumapit sa akin sina Boyet at Leslie, walo at anim na taong gulang, na kasabay naglalakad ng daang-daang mga bata na may edad 2 hanggang 11. Kasama nila ang

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kanilang kapitbahay na buhat-buhat ang isang dalawang-buwan na musmos. Parepareho silang lumilikas galing sa Infanta, ang ilan para maghanap ng pagkain, at ang iba, dahil gumuho na ang kanilang mga tahanan at natabunang buhay ng putik ang kanilang mga kamag-anak.

I asked myself: Are all of these real? Totoo bang nangyayari lahat ito? Sabi ko, Lord, kung ito ay isang masamang panaginip ay gisingin mo na ako. Hindi na makaya ng aking dibdib ang aking nakikita.

Unfortunately, everything was a living nightmare, all real and not a dream.

Akala ko ay hindi na gagrabe pa ang aking makikita. I thought it could no longer get any worse. But when I reached Tignuan, again I was wrong.

Akala ko noong ako ay gobernador pa sa panahon ng aming rescue operations sa mga biktima ng paglubog ng MV Princess of the Orient ay 'yoon na ang pinakakalunos-lunos na mga sandali sa aking buhay, ngunit mali pala ako.

Hindi ko po sukat akalain na ang mga nakita nating pinagdugtong-dugtong na larawan sa telebisyon ay wala pa sa katiting ng katotohanan na lumantad sa aking harapan.

Ang putik ay lampas tao. Sumisilip na lang mula sa lupa ang mga yero na dati pala ay bubungan ng mga nakatayong tahanan. Nagkalat ang mga putul-putol na troso na animo'y mga tingting na nakasambulat. Ang mga paaralan na kung dati ay nagbibigay-liwanag sa kaisipan at kinabukasan ng mga kabataan, ngayo'y tila pugad ng kadiliman, na nagsisilbing morge kung saan inilagak ang mga bangkay. The air was filled with the smell of death.

Cries of children, muted pain and sorrow, and disbelief in the eyes of men and women welcomed me. They said that it was the only instance in the past

week that they, despite what has happened, managed to finally give a smile.

Dito ko nakilala si Aling Rosa na kusang lumapit sa akin at parang nakitaan ko pa ng bahagyang ngiti habang papalapit.

Nagulat ako: Hindi siya umiiyak; walang bakas ng hinanakit o pagkalungkot.

Kaya naman pala ay ubos na ang kanyang mga luha! Ilang araw na niyang hindi nakikita ang kanyang buong mag-anak na hindi niya alam kung buhay pa o patay na ang mga ito.

Ang sabi niya sa akin, ang bawa't babae na kanyang natutulungan at nakakaniig ay para na ring si Nene niya na nawawala. Ang bawa't malakas na bisig na kinakapitan niya at madama ay para na ding si Nestor niya na hindi niya nakikita. Bawa't tasa ng kape na iabot sa kanya ay para na ding galing kay Tasyong irog niya.

Dagdag ni Aling Rosa, sa halip na magmukmok, magwala, o manisi, ay dasal na lang niya, na sana, kung ano mang tulong ang ibinibigay niya sa iba, ay ganoon din ang tulong na ibinibigay sa kanyang pamilya. Umaasa na lamang, siya na pagkatapos ng lahat ay magkikita silang muli.

I was at a loss for words. She did not need my consolation; in fact, she consoled me more. I saw in her the rainbow after the storm. I saw in her the hope for our nation. She was bayanihan alive.

Hindi ko po namalayan na sampung oras na kaming nasa madilim, basa, at malamig na putikan. Hindi ako nakaramdam ng pagod, uhaw at gutom. I was numbed.

If there was one emotion in my heart, it was the uncontrollable anger for those responsible for this disaster! Mixed with the cold rain, I was not even sure if the cries and screams for justice from the

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destruction all around me brought me tears of despair, sorrow, pain and anger altogether.

I said to myself, if it meant being the last thing I would do, I, in my small way, will not permit all of this to happen again. Buhay ang inutang, kaya buhay rin ang dapat na kabayaran. Death to illegal logging! Death to illegal loggers!

'Ni singkong duling ay hindi nakinabang ang mga kaawa-awang taong ito na nagbuwis ng kanilang buhay sa kahayupan ng mga ganid na mangangahoy na ito. Pero bakit sila ang dapat singilin ni Inang Kalikasan sa pagkakautang ng mga negosyanteng ito?

We were no longer able to go back to Maragondon because the continuous rains and three landslides made Tignuan inaccessible to all forms of transportation. It would likewise be very dangerous to trek back the same path we took coming in because it was dark and very slippery.

Upon reaching the town proper of Real by banca, after braving gigantic waves and strong current, soaking wet, we proceeded to a school where the AFP was stationed.

There, the soldiers shared with us some canned goods, which were supposed to be their food for the next day, under candle light for dinner. Maniwala man kayo o hindi, ang hapag po na pinaglatagan ng aming hapunan, na binalot lang ng isang plastic sheet, ay pinagpatungan pala ng mga bangkay! Totoo pala na ang taong gutom na gutom ay wala nang maisip na iba kundi lunukin ang bawa't maisusubong pagkain.

Mayor Arsenio Ramallosa arrived and we were fortunate enough to have been accommodated by him in his house to spend the night. I was fortunate to have been lent a pair of shorts by the mayor and a blouse from his wife, so I could change my wet clothing. It was the first

time I managed to smile, and chuckle even, that day.

I was not able to sleep in spite of the hospitality under the existing circumstances. The experience was liberating though. It has been a long time that I have gone to bed, air-cooled down. I was briefless.

Hindi ako makatulog dahil sa alulong ng malakas na hangin, sa lakas ng hampas ng ulan, manaka-nakang pagtahol ng aso, at nakabibinging katahimikan sa pagitan.

Aaminin ko po, pumasok na sa isipan ko kung makaligtas pa kami sa aming kinalalagyan. From being the rescuers, we were now one of those needing rescue.

Hindi ko namalayan na umaga na pala. Gusto ko pa sanang tumulak ng Infanta. Pero pinakiusapan ako ni Mayor at ng mga residente doon na huwag na munang tumuloy. Sabi nila, mayroon akong kuwento na dapat iparating sa Maynila.

Pinalad ako na noong araw na iyon ay may paparating na Navy boat na may lulang mga sundalo at relief goods para sa Real. Sa barko na ngang ito kami nakasakay pabalik, kasama ang halos 200 pang iba. Noon ko lamang naramdaman ang lahat ng pagod, ang sakit ng katawan at gutom, sabay pagkapawi ng pagkamanhid sa isip at diwa. Noon na lang ako uli nakalanghap ng sariwang hangin, na malinis na sa amoy ng kamatayan.

Nagpasalamat ako sa Diyos na binigyan Niya ako ng bihirang pagkakataong ito na makisalo, makiisa, at maging kaisa ng ating mga kababayan na nasalanta sa Quezon. Nagpasalamat ako sa Diyos na nakinig Siya sa aking pakiusap na maiparating ko sa lahat ang kuwentong ito nina Mang Ric, Aling Rosa, Boyet, Leslie, at marami pang iba.

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This experience has made me a complete human being, and to my belief, a better public servant. Ngunit, dalawang araw lang ako doon. Wala pa ito sa kalingkingan ng paghihirap na naranasan at dinaranas ng ating mga kababayan doon.

I share this with you today, not for you to pity our kababayans, but to be proud, because we have shown that we Filipinos have the biggest hearts in the world. I share this with you to show that the spirit of bayanihan is alive and it is the hope for our country yet.

Likewise, I am not here to point my accusing fingers. Instead, I am here to say that I have chosen, like Aling Rosa and the millions of other Filipinos, to use my fingers and my hands to rebuild what has been destroyed. This is bayanihan.

It is showing in the efforts of the thousands of volunteers and organizations who rushed to the aid of the victims. It is showing in the millions of Filipinos who have contributed in the relief operations, either by donating, packing or distributing relief goods to those in need. It is felt in the prayers of every Filipino that we may rise from the ruins. It is exemplified in the sacrifice of the military servicemen and civilians who are still in the sites up to this day, helping to recover the dead, extending medical services to the injured. It is being aired by media to rouse our sense of patriotism and civic-mindedness.

It is being heard in the Halls of Congress and the Senate. It is being seen in the efforts of the national government.

Nakakalungkot lang na ang magandang kaugaliang ito ng Pilipino ay lumalabas lamang sa panahon ng unos. Bayanihan should never be reactive alone. It is not an emergency measure. Ang diwa ng bayanihan ay dapat nating araw-araw isabuhay. Ito ay ang pagtulong sa nangangailangan. Ito ay ang pagkakaisa at pagkakapit-bisig tungo sa kabutihan ng lahat. Ang bayanihan ay ang

pagsasakripisyo ng kaunti ng ating mga sarili para sa iba.

In the spirit therefore of bayanihan, I call on everyone to act together especially in these times of need. It is not the time for debates nor for the *ayes* and the *nays* of Congress. What our people need now is immediate help and action.

Kaya naman, nananawagan ako sa lahat ng ating mga kasamahan na pagtuunan nating bawa't isa ng kahit na isang paaralan, kahit isang ospital, isang kalsada, o isang tulay ang mga lugar na nasalanta ng bagyo sa Quezon, Aurora, Nueva Ecija, Bulacan, Isabela at Pampanga.

Here I have a *simple stick*. Isang tungkod na kahoy. All throughout this adventure, I have clung to it for life. Panukat sa lalim ng putik, panukat sa bilis ng agos ng tubig, panghawi sa talahib, at tungkuran sa aking paglalakad.

Tulad ko, ang mga kababayan natin sa Real, Quezon, ay nakakapit din sa kanilang mga tungkod. Ito lamang ang pumupuno sa kanilang lakas at nagbibigay ng pag-asa na patuloy silang mabuhay.

Let us give them more than just their sticks to pin their hopes on. We owe it to them. Let us be their walking sticks of hope.

INTERPELLATION OF SENATOR LAPID

At the outset, Senator Lapid commended Senator Revilla and party for their courage in traveling to the areas adversely affected by the typhoons. He recalled that he had the same experience when Mt. Pinatubo in Pampanga erupted in 1991. He said that it took 10 years for Pampanga to recover from that tragedy. He expressed the hope that the calamity-stricken areas like Aurora, Quezon, Nueva Ecija, and Bulacan, among other places, would be able to recover soon. He joined Senator Revilla in urging all the senators to unite in rehabilitating

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the affected provinces. He expressed sympathy for all the families who suffered from the tragedy.

Asked on the number of deaths caused by the calamity, Senator Revilla replied that in Real alone covering Barangays Tignuan, Hinuluan and Maragondon, the death toll as of the time he was there was about 241, of which 186 were identified and 94 were still missing. Upon query, he said that thousands of logs that came from the mountains caused the loss of lives and properties as well as destroyed infrastructure in the affected areas.

Asked about his plans to address the situation as chairman of the Senate Committee on Public Works, Senator Revilla replied that he wanted everybody to know the real situation of the people in the affected areas in order to determine the kind of help to be extended to them. He conceded, however, that it was difficult to reach the stricken areas as the only passable road is in Barangay Tignuan. He informed the Body that choppers attempted to penetrate the towns of Infanta and General Nakar but failed because of zero visibility.

On whether the victims would be relocated, Senator Revilla replied that the victims are being housed temporarily in school buildings.

On the observation that the country has no permanent evacuation centers, Senator Revilla stated that the national and local governments are doing everything to provide temporary housing to the victims.

Senator Lapid said that the situation is aggravated because the victims, particularly the children, cannot continue with their education because schools are being used as relocation centers.

INTERPELLATION OF SENATOR EJERCITO ESTRADA (J)

Upon query by Senator Ejercito Estrada (J), Senator Revilla informed the Body that there are 18 barangays in Real, Quezon. As to the death rate, he said that there are 241 deaths, of which 186 were identified and 94 were missing.

On whether he agrees that aside from the illegal loggers, the President is also primarily responsible for the tragedy because she has failed to stop illegal logging despite the power and resources at her command, Senator Revilla replied that the national and local governments are doing their share to address the situation. He stressed that the more important concern was to punish all those responsible for the tragedy.

Asked whether he has identified any illegal logger particularly in his home province in Cavite, Senator Revilla replied that Cavite has no logging area.

Asked about his own environmental policy, Senator Revilla explained that he would rather leave the matter to Senator Cayetano who is the chairperson of the Committee on Environment and Natural Resources. He clarified that he was in favor of a selective log ban and "death for illegal loggers," but he conceded that he was not familiar with the government's review mechanism on the logging industry. He believed that the DENR should be the lead agency to investigate illegal logging although creating an independent body could speed up the process of finding solutions to the problem. He recalled that Col. Victor Corpus was chosen by the President to lead the task force against illegal logging activities in the provinces.

Asked what the President has done to address illegal logging, Senator Revilla replied that he would look into the programs of the government.

Replying to a further query, Senator Revilla agreed that the extent of destruction of the forest reserves has direct correlation to the loss of lives in the provinces of Aurora, Quezon, Nueva Ecija, and Nueva Vizcaya. He informed the Body that based on the latest report from the NDCC, in Regions I, II, III, IV, V, NCR and CAR, a total of 203,806 families or 991,158 persons were affected by the tragedy and 20,748 families or 86,492 persons were evacuated.

Senator Ejercito Estrada (J) noted that the administration has chosen to institute cosmetic measures but drags its feet when substantial

measures are called for as in the Angelo de la Cruz fiasco where President Arroyo hastily closed the employment doors to thousands of OFWs looking for work in Iraq. Moreover, he said that the government only acts when calamities strike.

Senator Revilla disagreed, adding that the President is doing her best. He asked that the Body give the President a chance.

On the claim that Mrs. Arroyo should have solved the problem on illegal logging a long time ago since she has been president for three years, Senator Revilla opined that it would be best to address such concerns during the budget deliberations. He stated that the problems on illegal logging started during the '70s but the people are paying for it only now.

INTERPELLATION OF SENATOR BIAZON

At the outset, Senator Biazon stated that the country has just gone through a traumatic experience and the government would have to address the losses in crops, livelihood, infrastructure and lives. He pointed out that in the state of Florida in the U.S., many lives were spared from the devastating storm because people were warned ahead of time. He stressed that had there been sufficient warning, many lives would have been saved.

Asked if the local folk in Quezon had been warned about the typhoon, Senator Revilla agreed that sufficient warning could have helped the people prepare for the worst but he lamented that they are so used to typhoons that they take rain for granted. However, he said, in this particular instance, the people were surprised to see the water level rise so fast and lumber roll down the mountains during the heavy downpour.

As regards PAGASA's capability to issue warnings, Senator Revilla conceded that PAGASA lacks the capability because the agency has been issuing insufficient and late warnings. In reply to a query, he said that "Yoyong" carried strong winds but "Winnie" had a larger amount of rainfall. He opined that the damage was due more to the rampage of logs forced down the mountains by heavy rains.

Moreover, Senator Revilla informed the Body that trees were not simply cut but the stumps were uprooted, causing the soil to loosen and erode, so when rains fall, the large holes would look like overflowing swimming pools cascading down the mountains. He agreed that logging is the main factor for the lives lost.

Senator Biazon expressed the view that a uniform percentage of the PDAF could be set aside for the relief and rehabilitation work but the Body should conduct a thorough investigation of the tragedy, including the matter of illegal logging and early warning measures.

Asked if the local government units gave immediate response to the situation, Senator Revilla replied in the affirmative, pointing out, however, the soldiers were the first to provide assistance.

Senator Biazon informed the Body that during the committee hearing, the Office of Civil Defense disclosed that the local government unit are allotted funds to use in such emergencies.

Asked if the calamity funds have been used for the intended purpose, Senator Revilla opined that the local government units have sufficient funds to respond to calamities. He agreed that the Body should conduct an inquiry into the local officials' capability to respond quickly to calamities.

In reply to another query, Senator Revilla agreed to the proposal to set aside a portion of the legislators' Countrywide Development Fund to be used for immediate relief to calamity stricken areas.

INTERPELLATION OF SENATOR ROXAS

At the outset, Senator Roxas congratulated Senator Revilla for giving shapes and faces to cold statistics in news reports. As a result, he said, the devastation was made much more real for him.

Asked what the most effective rescue effort is especially during the first hour of the calamity, Senator Revilla informed the Body that the NDCC which has received P71 million worth of donations had already released about 14,000 sacks

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of rice amounting to P11 million. However, he averred that the most important thing at the moment is to foster the *bayanihan* spirit in providing immediate relief to the victims who are in dire need of medicines, food, equipment and manpower. In fact, he stressed, General Nakar and Infanta, Quezon could not yet be reached as the military choppers could not land in the affected areas due to zero visibility.

He affirmed that the country was still under an emergency situation.

Replying to further query, Senator Revilla clarified that the military, Red Cross, NGOs, LGUs and other sectors are working hand in hand in providing relief and rescue operations but more help is needed.

Senator Roxas expressed hope that Senator Revilla's experience would contribute to a better understanding of and a better response to the tragedy.

INTERPELLATION OF SENATOR VILLAR

Senator Villar lauded Senator Revilla for risking his life to inspect the extent and magnitude of the destruction and to commiserate with the victims of the calamity.

Asked whether the government has a clear plan for reconstruction after the relief operations, Senator Revilla replied that a land use plan in the affected municipalities could be pursued. He recalled that when he visited Queen Charlotte Island about ten years ago, he noted the practice of planting twenty seedlings for every tree felled and those felled trees were placed thousands of kilometers away from the city so that communities there would not be affected during landslides or rock falls.

Senator Villar said that in the aftermath of the calamity, people should find solutions to the problem instead of finger-pointing. Noting that most of the trees were planted out of yet unpaid loans contracted by the government, he said that the President should take advantage of the Filipino people's current feeling of empathy and desire to help and enjoin everyone from all walks of life to do a "Green Revolution Part II" by planting

trees not only in cities but most especially in forest areas. He pointed out that this nationwide effort would not require money which the government does not have but it would help restore the country's forest cover.

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Pangilinan, there being no objection, the Chair referred Senator Revilla's speech and the interpellations thereon to the Committee on Environment and Natural Resources.

ROLL CALL

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

Arroyo, J. P.	Lapid, M. L. M.
Biazon, R. G.	Lim, A. S.
Cayetano, C. P. S.	Madrigal, M. A.
Drilon, F. M.	Magsaysay Jr., R. B.
Ejercito Estrada, J.	Pangilinan, F. N.
Ejercito Estrada, L. L. P.	Recto, R. G.
Enrile, J. P.	Revilla Jr., R. B.
Flavier, J. M.	Roxas, M.
Gordon, R. J.	Villar Jr., M. B.
Lacson, P. M.	

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

Senator Osmeña arrived after the roll call.

Senators Angara, Defensor Santiago and Pimentel were on official mission.

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. 43 and considered it approved.

PRIVILEGE SPEECH OF SENATOR LIM

Also availing himself of the privilege hour, Senator Lim delivered the following speech:

**THE UNABATED RAPE AND
DESTRUCTION OF OUR FORESTS
MUST BE STOPPED NOW, LEST NATURE'S
WRATH WILL CONTINUE
TO HOUND AND PUNISH US FOR
OUR TRANSGRESSIONS**

Once, I stood and shared with you a dream foreboding violent deaths of political figures associated with corruption whose identities I failed to vividly recall. It was horrible and terrifying because it was bloody, brutal, barbaric and brought to light man's vicious instinct to kill.

Later, I stood again, no longer sharing a vision but a reality that had caused alarm in the wake of incessant and blatant assassinations by unknown assailants perpetrated against the hapless and helpless victims.

But the reality after I made that privilege speech had turned from bad to worse; from a crime against an individual to a crime against our helpless countrymen, nature that God gave us, and the future generation.

This time, I stand before you, no longer sharing a dream nor litanizing specific deaths committed with the use of man-made lethal weapons, but by the massive deaths and damage to properties of colossal proportion.

Yes, the wanton rape and destruction of our forests, especially along the Sierra Madre ranges, caused the loss of more than a thousand lives, damage and loss of properties to the tune of more than a billion pesos, and brought grief and sorrow to thousands of hapless victims of that unforgivable human mischief.

Last week, typhoon Winnie struck Luzon and some parts of the Visayas, causing many deaths in the provinces of Aurora and Quezon and inflicting heavy damage to properties, agriculture, and infrastructure in the provinces of Aurora,

Quezon, Nueva Ecija, Pampanga, Bulacan and some parts of Bicol and Northern Luzon.

Some irresponsible DENR officials were quick to blame Mother Nature and point to it as the cause of the tragic deaths and destruction.

I cannot accept such finger-pointing because you and I know that God would not have done this to our country.

God is inimitable, infallible and impeccable. While we are His mere creatures, He had gifted us with all the blessings, graces and everything for our wholesome and worthwhile living that He expected to be reciprocated with our moral and upright living.

On the other hand, when man no longer respects but scorns Him, turns to immorality and forgets that he is only a mere creature, God justly brings upon mankind catastrophes as punishment, similar to what was done to the sinners of Sodom and Gomorrah who perished by fire, or those who perished through floods, leaving alive only men and animals on board Noah's Ark.

Let us not blame God for every horrifying tragedy befalling us, as we often do, because He certainly abhors authoring disasters, unless of course we have become sinners of equal, if not superior footing, than those punished in the biblical accounts I mentioned which, of course, I am not prepared to accept.

I do not think God would have wished to happen the water-full of fury at its extremes; of nature's merciless wrath; of the intolerable sight of hundreds and thousands of people forlorn, desolate, abandoned and yelling for futile help, shouting prayers, helplessly asking, in desperation for and absence of hope, where God was!

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Men and women, strong and weak, old and young, infants and aged ones, fled for survival from the rolling rocks and stones, from the cascading mud and water from upstream, succumbing to the rushing flood and perishing like their helpless animals and pets.

The floods and landslides were ruthless. The killer mud, rocks and stones with rains falling in torrent, randomly claimed lives, strewing mangled bodies, mostly of innocent children who can no longer be the future hope of our nation, whose crimson blood were washed down and who, sadly, can no longer be witnesses to another tragedy of men, greedy for money, fame and political power.

In the aftermath, we see the incontrovertible physical evidence of what caused the carnage: rolling logs freshly cut from hundred-year-old trees together with slabs strewn all over the low-lying areas where they ended up after having been carried by the waters, sophisticated logging equipment like chainsaws and cutters, all messengers of death, and plunderers of forest wealth.

The heavy rains and howling winds attacked the helpless, barren and denuded Sierra Madre ranges, causing its weakened soil to erode and the illegally cut logs to follow suit, rolling down the slopes uncontrollably, instantly killing and seriously injuring defenseless and unwary residents, and destroying sturdy houses and buildings as well as concrete bridges in its path.

It is saddening that Luzon was rampaged, greatly hitting the provinces of Aurora and Quezon, its denuded Sierra Madre ranges, sparing no less the provinces of Bulacan and Nueva Ecija.

We ascribe the untimely and sacrificial deaths of 630, injuries of 373, and the still unaccounted victims or still missing of 607 to typhoon Winnie.

Let us face it: the tragedy in Quezon, Aurora and Nueva Ecija, is man-made.

Yes, man-made because of the unscrupulous and evil acts of illegal loggers, *kaingineros* and corrupt officials who failed to preserve and take care of our forests; and, of course, the indifference and silence of the great many of our countrymen in allowing the unabated rape and destruction of our forests.

When shall we stop man-made disasters? When can we say no to our self-interest and greed for self-gratification? Shall we continue to allow the slaughter of our countrymen whom God had vivified on the face of the earth? Shall we allow ourselves to be part of the annihilation of nature and mankind, whether actively or passively?

Beyond cavil, the widespread ecological mayhem was horrible and tragic, surpassing all crimes. Its statistics dwarfs the pernicious drug menace and renders less dangerous lethal weapons because, as we now realize, chainsaws used for felling trees appear to be the most destructive instrument man had ever invented.

Yes, chainsaws are used for logging, legal or otherwise. Ironically, timber-cutting is not only allowed but licensed for decades, giving the loggers the freedom to destroy and denude forests. More likely than not, licenses are obtained in consideration of huge election or campaign funds. That is the reason they were given the license to kill.

Logging of all sorts has been going on in the provinces of Quezon and Aurora without let-up and with impunity.

Laws penalizing illegal logging had been violated brazenly and fearlessly.

Illegal loggers had been emboldened to continue with their nefarious killing of our vital forests. I am sure, they are not alone in their illegal acts. They must be coddled,

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protected and defended with zest by those who share from the blood money and loot they derive from that profitable but immoral venture.

Money was easy from freshly cut hardwood. It was irresistible to barrio folks, some of whom banished in their man-made mishap. Even the poor aborigines or natives inhabiting the forested area are susceptible to temptation of "easy money". Thus, the carabao loggers commenced business selling hot logs to "financing" sawmill proprietors or logging magnates, licensed or not.

Illegal loggers are nothing but a myth. A poor man cannot sustain the expenses of tree-cutting. It has to be financed by an investor, a financier and the moneyed so-called legal loggers.

Only the legal concessionaires exploiting the illegal loggers can take advantage of the power of their money, abuse the poverty-stricken inhabitants in the area who have no choice but to allow themselves to be exploited for money.

I cannot understand how logs could be felled in the open, cut to sizes with high-speed sawmills, transported to the exporters and end-users and *disappear that fast* without any public official or peace officer noticing them.

Logs are not commodities easy to carry, to handle or to transport without the aid of numerous workers and sophisticated equipment. Yet, it seems nobody noticed the operations going on for several decades.

Mga kaibigan at kagalang-galang na senador, ito pong mga logs na ito ay hindi puwedeng maibulsa o maitago sa katawan. Kitang-kita po ng lahat ito. Hindi lamang makita dahil nagbubulag-bulagan at hindi magising dahil gising at iyan po ang napaka-hirap gisingin.

Public officials and private individuals involved in illegal logging must be punished, even under our generous penal laws for the time being, and made to answer for the damage wrought on our country and people.

Presidential Decree No. 705, otherwise known as the Forestry Reform Code of the Philippines, issued by President Marcos in 1975, provides a relatively light penalty for illegal logging.

Under Section 68, illegal logging is considered only as a qualified theft and punishable under Articles 309 and 310 of the Revised Penal Code. Under Section 69, *kaingin* is penalized by imprisonment of from 2 to 4 years. Under Section 79, sale of illegally cut logs or wood products is penalized by a fine of P200.00 or the total value of the invoice.

Noticeably, there is no penalty for any personnel of the Bureau of Forestry or the DENR involved in the commission of illegal logging or who conspire with illegal loggers.

It is high time we made illegal logging a heinous crime with a proviso that, regardless of connections and influence and place of commission, the perpetrators shall be prosecuted in any courts in Metro Manila to prevent harassment of witnesses and insure continuous watch of the development of the cases, that is, to prevent the influence of powerful personalities.

Whether public officials or private individuals, those found guilty shall be equally meted the supreme penalty of death.

Words are not enough to assuage the grief of the surviving relatives of those who perished and wounds sustained by those injured. Money is not sufficient to compensate for the loss of lives and

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properties. And, prayers, while spiritually gratifying, are nonetheless too merciful to comfort the victims and their relatives, because more than money, sympathy and prayers, they need and they cry for justice, that is, the prosecution and imprisonment of the culprits.

Let us, therefore, flush out illegal loggers so we can vindicate the loss of lives and properties of the helpless victims, through giving them real justice.

Because of the gravity of the tragedy that struck us in the wake of typhoons Winnie and Yoyong, I urge and I appeal to this august Body to conduct a thorough investigation in order that appropriate legislation can be made by the appropriate Committees to end, once and for all, the illegal logging activities in this country and ensure a better future for the coming generations.

And before closing, may I quote what Martin Luther King said:

"Our lives begin to end the day we become silent about the things that matter. Cowardice asks the question: Is it safe? Expediency asks the question: Is it politic? Vanity asks the question: Is it popular? But conscience asks the question: Is it right? And there comes a time when one must take a position that is neither safe nor politic nor popular, but one must take it because it is right. The time is always right to do what is right."

INTERPELLATION OF SENATOR ENRILE

At the outset, Senator Enrile agreed with Senator Lim that the penalty for those who defy the law is very minimal. He said that he would support any proposal relating to the tragedy that happened in the provinces of Quezon and Aurora.

Asked if he believed that the illegal loggers would stop if a national total log ban was pursued, Senator Lim replied in the negative, stating

that these unscrupulous people would not stop because they are intent on amassing wealth.

On the observation that despite the imposition of death penalty, many drug pushers are still into shabu manufacturing and cocaine smuggling, sometimes even using yachts in doing their business, Senator Lim averred that these people would stop their unlawful activities only if the government has the political will to strictly enforce the laws like one on total log ban.

Noting that the typhoons had also hit areas like Catanduanes, Bicol, Camarines, Kalinga, Apayao, Benguet, Mountain Province and Cagayan, Senator Enrile asked why only Aurora and Quezon were seriously damaged.

Senator Lim replied that apparently, many trees were cut wantonly and piles of logs were carried by the flashflood during the onslaught of the typhoons. He affirmed that there are areas without a log ban yet the cutting of trees had ceased, or logging is done according to the law.

Senator Enrile explained that the tragedy in Aurora and Quezon would not have happened if people had not persisted on clear-cutting operations and had followed the law.

Senator Lim agreed, adding that other provinces that comply with government requirements on logging did not suffer the same fate.

Senator Enrile recalled that when he went home to his province in Region II after the elections, he saw a queue of trucks loaded with veneers that reportedly came from Luna, Apayao which is known for its thick forests. He said that he reported the incident to the mayor of Sta. Ana and then Environment Secretary Gozun and asked them to stop the illegal activity and prosecute the violators of the law but Secretary Gozun did not act on the matter. He stated that he reported the incident to the new Environment Secretary, Mike Defensor, who must have reported the matter to President Macapagal Arroyo because she ordered a stop to the illegal activity in the province. The persons responsible for the illegal logging operations in Apayao, he disclosed, were Frank Chua who

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also got involved in the PEA-Amari scam, and Jimmy Ong.

As regards the action taken by the authorities against the violators, Senator Enrile stated that Frank Chua goes to China whenever his illegal activities are exposed. He said that the logging operations of Mr. Chua were reportedly transferred to Davao.

Asked whether the whole nation should be punished just because one or two provinces were negligent, Senator Lim replied in the negative. He stressed that the violators should be identified and penalized.

Senator Enrile asked if the tragedy in Quezon and Aurora would have occurred had logging been banned in the entire country. He posited that the Body should seriously study the logging issue as he does not know of any country which totally prohibits logging since trees that die naturally should be cut down. In Myanmar, he pointed out, logging concessions are cancelled by the government once concessionaires cut down trees that have not been marked by forest rangers. He stated that the Philippines used to observe the same rules and regulations in the pre-war period to preserve its virgin forests but the dwindling forest cover is a testament to man's rapacity.

In closing, Senator Enrile exhorted the legislators to be more circumspect with the problem of illegal logging in order to avoid future tragedies.

REFERRAL OF SPEECH TO COMMITTEE

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

REFERENCE OF BUSINESS

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

Letters from Speaker Jose De Venecia Jr. dated 22 November 2004, informing the Senate that Representatives Jesli A. Lapus, Rodolfo T. Albano III, Alfonso M. Umali, Faustino DG. Dy III, Lorna C. Silverio, Joseph A. Santiago and Ruy Elias C. Lopez are members of the House Panel in the Congressional Oversight Committee on the Official Development Assistance Act of 1996; and Representatives Teodoro L. Locsin Jr., Jesli A. Lapus, Salacnib F. Baterina, Arthur C. Defensor, Antonio V. Cuenco, Emmanuel Joel J. Villanueva, Florencio "Bem" G. Noel and Bai Sendig G. Dilangalen as members in the Oversight Committee on the Overseas Absentee Voting Act.

To the Committee on Rules

BILL ON FIRST READING

Senate Bill No. 1872

AN ACT AMENDING SECTION SEVENTY-EIGHT OF PRESIDENTIAL DECREE NUMBERED SEVEN HUNDRED FIVE AS AMENDED, OTHERWISE KNOWN AS THE REVISED FORESTRY CODE OF THE PHILIPPINES

Introduced by Senator Revilla

To the Committees on Environment and Natural Resources; and Constitutional Amendments, Revision of Codes and Laws

RESOLUTIONS

Proposed Senate Resolution No. 138

RESOLUTION DIRECTING THE SENATE COMMITTEE ON CULTURAL COMMUNITIES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE RECENT TRAGEDY THAT BEFELL

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THE INDIGENOUS PEOPLE AND CULTURAL COMMUNITIES OF THE MUNICIPALITIES OF DINGALAN, GABALDON AND INFANTA OF THE PROVINCES OF AURORA, NUEVA ECIJA AND QUEZON, RESPECTIVELY

Introduced by Senators M.A. Madrigal, Lim, Luisa "Loi" P. Ejercito Estrada and Jinggoy Ejercito Estrada

To the Committees on Environment and Natural Resources; and Cultural Communities

Proposed Senate Resolution No. 139

RESOLUTION URGING THE SENATE COMMITTEE ON PUBLIC INFORMATION AND MASS MEDIA TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE CURRENT STATE OF THE LOCAL FILM INDUSTRY WITH THE END OF VIEW OF CREATING A MORE VIABLE, SUSTAINABLE AND GLOBALLY COMPETITIVE FILM INDUSTRY THAT IS A VITAL PARTNER IN NATION-BUILDING

Introduced by Senator Revilla

To the Committees on Public Information and Mass Media; and Trade and Commerce

COAUTHORS

Senator Pangilinan manifested that Senators Magsaysay, Flavio, Revilla, Lapid, Villar, Gordon, Recto, Arroyo and Cayetano are coauthors of Proposed Senate Resolution No. 110 (granting amnesty to Oakwood mutineers). He clarified, however, that Senators Arroyo and Cayetano have expressed their reservations only with regard to the wordings of the resolution.

MANIFESTATION OF SENATOR LIM

Senator Lim expressed appreciation and gratitude to the Members of the Majority who crossed party lines and signed Senate Resolution

No. 110 as cosponsors in the spirit of reconciliation, unity and cooperation. He said that Senators Arroyo and Cayetano signed the resolution with reservations.

**COMMITTEE REPORT NO. 5
ON SENATE BILL NO. 1854**

(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1854 (Committee Report No. 5), entitled

AN ACT INCREASING THE EXCISE TAX RATES IMPOSED ON ALCOHOL AND TOBACCO PRODUCTS AMENDING FOR THE PURPOSE SECTIONS 141, 142, 143, 144, 145 AND 288 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED.

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

The Chair recognized Senator Recto, sponsor of the measure.

**MANIFESTATION OF
SENATOR PANGILINAN**

Senator Pangilinan said that those who had made their reservations to interpellate Senator Recto would like to do so at a later date.

REMARKS OF SENATOR LACSON

Senator Lacson stated that if Senator Recto would give the assurance that he would not be prevented from asking further clarificatory questions during the period of amendments, he would be willing to forego his interpellation.

Senators Recto and Pangilinan posed no objections.

REMARKS OF SENATOR OSMEÑA

Senator Osmeña reiterated his position that while the senators are tasked to consider

several tax measures which would put an immense financial burden on the people, particularly the fixed-income earners, it is also the constitutional responsibility of all Members of Congress to fine-tune all the tax measures, determine the need for them, find alternate sources of income which government could use, and insure that existing tax laws are properly implemented.

In the past three months, Senator Osmeña stated that the Committees on Ways and Means; Finance; Trade and Commerce; Economic Affairs; and Energy have conducted several hearings to determine whether the government could save money elsewhere in order to mitigate the tax burden of the people. However, he said that the administration has not been forthcoming in supplying the Members with information that normally should have been available. For instance, he revealed, he has not received the information on all the emoluments of the executives and the boards of directors of various government-owned and -controlled corporations, considering that of the more than P6 trillion consolidated public sector debt, 45% was incurred by GOCCs whose budgets have never been approved by Congress.

On another matter, Senator Osmeña stated that he has just received the list of the "order of battle of smugglers" which the Bureau of Customs started preparing only on November 16. The first thing that the Customs Commissioner should do, he pointed out, is to address smuggling which is the source of tax leaks. He cited the alcohol products sold in liquor stores all over the country which have not paid taxes and duties but are bought by very wealthy people who can afford to pay the excise taxes.

Senator Osmeña believed that for the Philippines to become competitive in the world market, its labor force, interest rates, power rates, telecommunications, transportation, etc. should be competitive.

In this connection, he informed the Body that John Gokongwei transferred his manufacturing investments to Thailand where the cost of doing business is much lower than in the Philippines. He disagreed with the view that by raising taxes the country would still be competitive when, in fact,

the Philippines is already one of the highest-priced markets in Asia.

Senator Osmeña urged the Majority to accede to his request for information as the Senate does not have the right to pass additional tax or revenue-enhancement measures unless it has tried its best to cut costs, stop smuggling, and eliminate tax evasion.

In this regard, he informed the Body that Fitch Rating Ltd. did not downgrade the Philippines, thus, there is no need to rush the enactment of the measure. However, if the Administration would accuse the Body that it is irresponsible for not passing additional revenue measures needed to prevent a further downgrading and a rise in the interest rates, he said he would call it a liar for not telling the people the whole story and would inform the public of what the Administration is hiding.

Senator Osmeña lamented that the Administration has not made any concerted effort to cut smuggling when that should be the first order of business of the customs commissioner. He pointed out that the Body would soon consider the Lateral Attrition bill which would reward BIR and BOC should they exceed a given quota. Why not reward the citizens instead for pinpointing smugglers by giving them 10% or 20% of the total value of confiscated goods, he asked.

In this connection, Senator Osmeña disclosed that the smuggling in 2001 by Ever Harvest of P144 million worth of cigarettes into Clark Field which has 30,000 workers and about 50,000 daily visitors is evidence that the BOC is dragging its feet in stopping smuggling. Moreover, he informed the Body that all countries reportedly exported to the Philippines US\$37 billion worth of goods but the government reported only a total importation of US\$30 billion, a difference of US\$7 billion in smuggled items equivalent to about P360 billion or a loss of P50 billion in value-added tax and duties which, if collected, would balance the national budget next year.

Senator Osmeña expressed hope that his colleagues would support him in his effort to cut expenses before raising taxes. Finally, he reminded Senator Recto of his request for a copy of the

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demand curve study which the Department of Finance used in determining the rates of increase in excise taxes.

MANIFESTATION OF SENATOR RECTO

Senator Recto manifested that he had instructed the DOF to provide the additional information requested by Senator Osmeña. He said that his staff has furnished the office of Senator Osmeña with a copy of the projected removals between now and 2011 based on the Committee's assumptions and simulations.

The Chair asked if the DOF had made a commitment on the information regarding the GOCCs as it expressed disappointment over the DOF's failure to provide the requested data.

Senator Osmeña stated that since Senator Madrigal presented a demand curve model in yesterday's session, he wanted a basis for comparison. He argued that it was impossible for DOF to recommend the rates of taxes without a study on the demand for the sin products. He explained that he needs data on the growth in the demand for tobacco from the time the specific tax system was implemented and on the effect of the change in price on demand. He believed that such information would help the senators in making a wise decision on the level of taxes that should be imposed on alcohol and tobacco products.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:13 p.m.

RESUMPTION OF SESSION

At 5:14 p.m., the session was resumed.

Upon resumption, Senator Recto stated that Undersecretary Grace Tan had informed him that the DOF would do its best to comply with all the requests. He requested Undersecretary Tan to talk with Senator Osmeña on his request for a copy of the study on the demand curve. As to

the data on the GOCCs, he said that according to Undersecretary Tan, the DOF had already provided Senator Osmeña with some of the information.

The Chair stressed that DOF should be given a deadline to submit the information, so that Senator Osmeña could continue with his interpellation.

Senator Osmeña expressed disappointment that the Filipino people are being asked to tighten their belts but the DOF officials have been stonewalling on a simple request for complete data on the salaries, benefits, allowances and other perks of top officials and executives of the GOCCs who make as much as P24 million a year. Should the DOF refused to provide the information, he urged the Body to hold its action on the proposed measure.

REMARKS OF SENATOR LACSON

Senator Lacson explained that he terminated his interpellation to get over with the measure so that the government could raise more revenues on a level-playing field. He stated that he would have insisted on deleting Section 145 of the National Internal Revenue Code of 1997 but since Senator Recto would not accept such an amendment, he would just fight it out during the period of amendments. If the objective is not to pass the measure, he suggested that a caucus be held.

Senator Pangilinan informed the Body that two informal caucuses had been held between the representatives of the Majority and the Minority. He agreed with Senator Lacson that one or two more caucuses might be needed before the Chamber goes on recess, so that the Body could move forward on the measure. He said that he had discussed the matter with Senate President Drilon.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1854

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

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**COMMITTEE REPORT NO. 9
ON SENATE BILL NO. 1871**
(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1871 (Committee Report No. 9), entitled

AN ACT TO IMPROVE THE REVENUE COLLECTION PERFORMANCE OF THE BUREAU OF INTERNAL REVENUE (BIR) AND THE BUREAU OF CUSTOMS (BOC) THROUGH THE CREATION OF A REWARDS AND INCENTIVES FUND AND OF A PERFORMANCE EVALUATION BOARD AND FOR OTHER PURPOSES.

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

Thereupon, the Chair recognized Senator Recto, sponsor of the measure.

INTERPELLATION OF SENATOR ENRILE

Replying to Senator Enrile's queries, Senator Recto agreed that one of the cardinal powers of a government is the power to tax which is the reason for the existence of the Bureau of Internal Revenue and the Bureau of Customs and for which their employees are paid.

Asked why a reward system is needed for the employees to perform their function to raise money for the government, Senator Recto explained that the salaries of the employees do not provide enough motivation to counter the offers of unscrupulous tax evaders and smugglers. He said that the incentive is being tied with the bill's objective to hit the revenue targets. He conceded that while he would like to pay government employees better salaries, it would be difficult to exempt the two agencies from the Salary Standardization Law.

Asked if he agrees that tax farming, a system of bidding out the collection of taxes, is a condemnable act of government, Senator Recto

pointed out that, in fact, the bill privatizing tax collection has not been passed by the U.S. Congress. While he admitted that the bill under consideration tended towards a tax-farming policy, he stressed that the measure is intended to attain the state's revenue target by motivating BIR and BOC employees through a 20% share in excess of collection target. He stressed that no new tax would be imposed on the public.

Asked whether providing a system of rewards and sanctions, in effect, recognizes and rewards the inefficiency of both bureaus, Senator Recto clarified that the reward is not on the inefficiency but the ability to meet the revenue targets. He said that the system of rewards is a management tool practiced in other offices to increase productivity.

Asked if the same tool could be adopted by the judiciary to dispose its backlog of cases, Senator Recto explained that the bill only applied to revenues of the government and its generating agencies like BIR and BOC. He agreed that the basic principle to reward people in government could be applied to the entire bureaucracy but he noted that each agency has its own merit and reward system as provided for under civil service laws and regulations.

In the case at hand, Senator Recto said that the Executive branch admitted to a fiscal crisis and requested Congress to provide a management tool that could be utilized to achieve revenue targets and to fire unproductive employees in the BIR and BOC. He stated that the proposed measure fits the request. He stressed that the bill is limited only to BIR and BOC because the collections of these agencies represent 85% of the total revenues of the government while the other agencies like LTO, ATO, and SEC are more of regulatory bodies. He believed that the measure should first be tested on the two bureaus. However, should the Body decide that the bill should apply to all revenue-generating agencies earning more than P100 million, he said that he was willing to accept an amendment at the proper time. But he cautioned the Body from adopting such a policy as it might be too bureaucratic.

Asked who would set the measurement of performance, Senator Recto replied that a

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Performance Evaluation Board would be created under Sections 3 and 4 of the proposed measure and the members thereof would be composed of the Secretary of the Department of Finance or his representative; the Secretary of the Department of Budget and Management or his representative; the Commissioner of Internal Revenue or his representative, in the case of the BIR; the Commissioner of Customs or his representative, in the case of the BOC; a representative from the rank-and-file employees; and a representative from the officials, both of whom shall be nominated by their respective recognized organizations. He likened the PEB to a jury of peers which would be provided with powers and functions as defined in Section 4 of the bill such as setting the guidelines for the allocation, distribution and release of the 20% incentive as well as the criteria and procedures for the removal of officials and employees subject to Civil Service laws, rules and regulations. He said that the only additional authority of the Board is that its decisions would be immediate and executory. He clarified that the reward would be based on the agency's revenue target while the sanction which is termination would not necessarily be based thereon, that is why the Board is being given the flexibility to set the guidelines.

Senator Enrile opined that the bill would suffer from a constitutional problem because civil servants could only be removed for cause and after due process. He noted that the power to determine the cause of an employee's termination is delegated to the Board without a standard; besides, though an appeal system is available, the decision of the evaluation board is immediately executory.

Senator Recto, however, clarified that the standards under the bill are those contained in Civil Service laws, rules and regulations. In fact, he noted that the CSC provides all agencies of government with some flexibility in adopting their own criteria based on Civil Service regulations but depending on their internal rules, mandate and functions. He stressed that the Board would follow due process in its evaluation, precisely because it would follow Civil Service law, rules and regulations. The only additional power, as requested by the Executive, is that the Board's decision would be immediately

executory but the employee or official has the right to appeal to the CSC and to the courts of the land, he said.

Adverting to Section 4(b), Senator Enrile observed that the PEB has the power to set the criteria and procedures for removing from the service employees and officials for sanctionable acts but the PEB would also determine what these acts are, along with the procedures for due process. He said that the phrase "subject to Civil Service laws, rules and regulations" would be meaningless as Section 4(c) provides that the decision of the board shall be immediately executory.

Senator Recto reiterated that the sanctionable acts are already identified in the Civil Service laws, rules and regulations while Section 4(c) was lifted from the same bill authored by Senator Enrile in a previous Congress.

At this juncture, Senate President Drilon recalled that the previous bill sponsored by Senator Enrile had set the standard for a revenue agent to get attrited if he fails to meet a particular percentage of the revenue target for three consecutive years. He asked whether a percentage of the revenue collection is part of the criteria and procedure. Senator Recto replied in the affirmative. He said that in the previous bill, a 30% revenue collection target was set but under the bill it is up to the PEB either to lower or raise the percentage. He did not believe that Congress should micromanage the agencies concerned.

Senate President Drilon pointed out that under the Constitution, Congress is the body which enacts the law and it cannot delegate the legislative authority to define the causes for termination without specific standard. This, he noted, is precisely the point being raised by Senator Enrile. Senator Recto recalled that he had discussed the matter with Senate President Drilon who had said that the bill had met the standard. Senate President Drilon clarified that he had made the remark because he viewed the measure as an incentive bill. The CS law is applicable to the whole bureaucracy, he pointed out.

Senator Recto pointed out that the Executive is requesting only two things: 1) a reward system

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with regard to the excess in collection; and 2) the termination of incompetent government employees as already contained in the Administrative Code and in the Civil Service Law, rules, and regulations. Further, he reiterated that at present, the Civil Service Commission gives each government agency the flexibility to determine its own criteria for inefficiency and incompetence. For instance, he noted that the Senate has a personnel department that determines the performance evaluation of its employees.

Senator Enrile stressed that the provision making the PEB's decision to terminate employees immediately executory deprives the concerned employee of his right to due process mandated by the Constitution. He said that this process as well as the safeguards is defined in the law by Congress.

In reaction, Senator Recto explained that the President vetoed the Enrile bill not because of the provision giving the PEB the authority to immediately execute its own decision but because it lacked a system of due process which Senate Bill No. 1871 incorporated.

Asked if a government employee would lose his retirement benefits in the event he is attrited, Senator Recto explained that an employee would lose all his benefits only if he is removed from service for violating the Anti-Graft and Corrupt Practices Act. Senator Enrile noted that the sanctions, therefore, could cover not only noncompliance with revenue targets. As such, he believed that Congress has the duty to define "sanctionable acts" because an employee's removal from office is in itself a penalty and the person concerned has the right to be informed of the reason behind his punishment.

Senator Recto expressed willingness to accept an amendment defining the term "sanctionable acts" at the appropriate time. However, he pointed out that, precisely, employees' representatives are included in the PEB to ensure that they are consulted in the determination of the criteria and procedures for termination.

On a related matter, Senator Enrile noted that while the PEB would be composed of Cabinet members, these members could assign anyone

to be their representatives. He asked if there is a limitation to the degree of intelligence or level of representation and why the privilege is given only to these government functionaries and not to the other members of the evaluation board.

Senator Recto explained that the representation was requested by the Executive because of the nature of the work of the Cabinet secretaries.

On the observation that an employee should be judged by the head of the office, not by a representative, Senator Recto expressed willingness to consider amendments at the proper time.

Replying to further queries, Senator Recto said that BIR employees with salary grade 24 and below are considered rank-and-file; in the case of the BOC, those with salary grade 19 and below. He said that the Commissioners of BIR and BOC and the Finance Secretary can be removed by the President at any given time. Should there be reluctance on the part of the President to remove them from office or ask them to resign if they cannot meet their goal, he believed that it is the President's call since these officials are not covered by the Civil Service law. He said that the provisions of the measure apply only to those who are in the career service, including undersecretaries. He stressed that he was following the same concept and philosophy of Senator Enrile's bill.

Asked what would happen to the benefits of an attrited person, Senator Recto reiterated that there are existing laws applicable to the case. He stressed that the bill is not amending the Administrative Code or any rights of employees under the Civil Service law.

Asked why 20% was chosen as the percentage of reward, Senator Recto admitted that the figure is arbitrary. He explained that the original law that was vetoed was at 10%, the House version is at 5%, and under the NIRC, 5%. He said that being liberal in giving benefits, he increased it to 20%. Upon further queries, he said that he was not aware of any reward for informers but he would be willing to confirm this information at a later time. Also, he expressed willingness to consider an amendment at the proper time reducing the percentage of reward.

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RESERVATION TO INTERPELLATE

At this point, Senator Pangilinan announced that Senator Lacson has reserved the right to interpellate on the bill on Monday.

**SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 1871**

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


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 Monday, December 13, 2004.

It was 6:14 p.m.

I hereby certify to the correctness of the foregoing.


OSCAR G. YABES
Secretary of the Senate
OSG

Approved on December 13, 2004