

REPUBLIC OF THE PHILIPPINES

S e n a t e

Pasay City

Journal

SESSION NO. 55

Tuesday, January 25, 2005

**THIRTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 55
Tuesday, January 25, 2005

CALL TO ORDER

At 3:46 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Juan Ponce Enrile led the prayer, to wit:

Let's bow our heads to honor the presence of the Lord:

Father Almighty, when You created man
In Your own image and likeness,
did You imagine
A world perfect in its conception?
A world where people ate at one table
Sharing the harvest of a community
at peace?

How long did it take You to decide
to fill the void
With planets and moons?
And when You let the first precipitation
Drop on the barren soil,
what genius in design
That the Sun was created to complete
the cycle of the seasons.

There is day and there is night,
the cold is tamed by warmth.
Man and woman side by side,
harmony and balance abound.

But Father Almighty,
Your world is now tipped
dangerously into destruction.
Men have engaged in war too long
Nature itself is in revolt.
The earth is literally shaking
In its foundations desperately trying
to bring Man to its senses.
When giant waves roll from seas,
are those not the frustrated tears
of Mother Nature
Begging belligerent children to behave?

What does it take to sit at one table
Sharing the harvest of a community at peace?
Is it too much to expect our country to unite?
When a vote in this hall
is called on a measure
How often do the 23 members agree?

Father Almighty,
as we reflect on events in the world,
And as we ponder on our duties as legislators,
Help us to be examples to our countrymen
That, in spite of our differences,
our country can move forward
In unity and peace.

Make us realize that survival on
Earth depends on the diversity of life.

Bestow Your wisdom upon us so that
we are able to discern
That the voice of dissent is not always
a dangerous challenge
To those who have temporal power
but a necessary mechanism for balance.
And give us the grace to live harmoniously
with each other
So that each voice is heard.
For everything has a place in Your Earth.
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:

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

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

Senators Biazon and Villar arrived after the roll call.

Senators Madrigal and Revilla were absent.

DEFERMENT OF 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. 54 to a later hour.

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 the Secretary General of the House of Representatives, informing the Senate that on January 18, 2005, the House of Representatives passed the following House bills in which it requested the concurrence of the Senate:

House Bill No. 3295, entitled

THE CONSOLIDATED INVESTMENTS AND INCENTIVES CODE OF THE PHILIPPINES

**To the Committees on Ways and Means;
and Economic Affairs**

and House Bill No. 3409, entitled

AN ACT FURTHER AMENDING PRESIDENTIAL DECREE NO. 1869, OTHERWISE KNOWN AS PAGCOR CHARTER

**To the Committees on Public Services;
and Government Corporations and Public
Enterprises**

COMMUNICATIONS

Letters from Undersecretary Guillermo R. Balce of the Department of Energy dated January 16 and 11, 2005, respectively, furnishing the Senate photocopies of the following:

Service Contract (SC) of South Sea Petroleum Holdings, Ltd. over Agusan-Davao Basin denominated as SC No. 45; SC of Japan Petroleum Exploration Co., Ltd. over Tañon Strait Area denominated as SC No. 46, entered into on December 15 and 21, 2004, respectively, by and between the Government of the Republic of the Philippines represented by Department of Energy Secretary Vincent S. Perez Jr. for and in behalf of President Gloria Macapagal-Arroyo and South Sea Petroleum Holdings, Ltd., represented by its Director Mr. Zhou Ling and Japan Petroleum Exploration Co., Ltd. represented by its Director and Vice President of International Oil and Gas Division Mr. Katsuro Suzuki; Service Contract (SC) of Premier Oil Philippines B.V. over Ragay Gulf denominated as SC No. 43; SC of Gas To Grid over Onshore Southern Cebu denominated as SC No. 44; and SC of PNOG Exploration Corporation and Petronas Carigali Overseas Sdn Bhd over Offshore Mindoro, entered into on January 14 and 28, 2004, and on January 10, 2005, respectively, by and between the Government of the Republic of the Philippines represented by Department of Energy Secretary Vincent S. Perez Jr. for and in behalf of President Gloria Macapagal Arroyo and Premier Oil Philippines B.V. represented by its Director Peter J. Cockroft, Gas To Grid represented by its Managing Director David A. Munns and PNOG Exploration Corporation and Petronas Carigali Overseas Sdn Bhd represented by its President Eduardo V. Mañalac and Chairman Tan Sri Dato' Sri Mohd Hassan Marican.

To the Committee on Energy

Letter from Secretary Raul M. Gonzalez of the Department of Justice dated January 10, 2005, submitting to the Senate pursuant to Section 18 of Republic Act No. 9206, the report on accomplishment of the Witness Protection Security and Benefit Program (WPSB) for the third and fourth quarters of FY 2004.

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

ADDITIONAL REFERENCE OF BUSINESS**MESSAGE OF THE PRESIDENT
OF THE PHILIPPINES**

Letter of Her Excellency, President Gloria Macapagal Arroyo dated 29 December 2004, submitting to the Senate for its consideration, a certified true copy of the *International Treaty on Plant Genetic Resources for Food and Agriculture*, which was approved by the FAO Conference at its Thirty-first Session in Rome on November 2001.

To the Committee on Foreign Relations**BILLS ON FIRST READING**

Senate Bill No. 1885, entitled

**AN ACT PENALIZING ENFORCED OR
INVOLUNTARY DISAPPEARANCE
AND FOR OTHER PURPOSES**

Introduced by Senator Pangilinan

To the Committees on Justice and Human Rights; Constitutional Amendments, Revision of Codes and Laws; and Finance

Senate Bill No. 1886, entitled

**AN ACT TO ACCELERATE THE
DEVELOPMENT AND REGULA-
TION OF THE PRACTICE OF
ACUPUNCTURE IN THE PHILIP-
PINES, PROVIDING FOR AN
ACUPUNCTURE TRUST FUND
AND OTHER PURPOSES**

Introduced by Senator Flavier

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

**PRIVILEGE SPEECH
OF SENATOR PIMENTEL**

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

Media announcements this morning reported that there are several spies brought in by American troops in Mindanao. As a

senator from Mindanao, it is my concern to see to it that our people are not unduly alarmed or hurt by the presence of these so-called spies.

If the report is true, personally, I do not think that the Filipino people should look askance this situation for the reason that the Philippines has always been treated as a neo-colony of the United States of America. So what if there are spies in Mindanao? They have spies here in high places of government. AGILE was a spy network working with Finance, with the Supreme Court, with NEDA. So again, let me just say that even if this is becoming part and parcel of Philippine life, nonetheless, I think that we should do something about it so that the neo-colonialist status of this country may not really be fulfilled in our lifetime.

In this connection, I would like to bring up the case of Michael Meiring for purposes of putting it into the record of this Chamber considering that Michael Meiring was spirited out of this country after he was hurt in a bomb blast in his hotel room in Davao City on May 16, 2002.

At 10:45 in the morning of that day, a bomb exploded in Evergreen Hotel located in Ramon Magsaysay Avenue in Davao City. The blast came from the room rented by Michael Meiring. Michael Meiring's legs were both blown off in that blast and his room was totally destroyed.

If Michael Meiring is an ordinary person, it is surprising that after he was brought to the Davao Doctor's Hospital, the following day, May 17, 2002, FBI agents John Gray, Robert McDowell and Adalberto Rivera visited Meiring at the hospital with Police Superintendent David Ombao.

I raise this issue because it is very surprising that here is somebody who claims to be an American citizen getting hurt in a bomb blast one day and the following day, three FBI agents came to visit him at the hospital room. On the same day, May 17, 2002, United States Vice-Consul Michael A. Newbill also visited Meiring. How come

that an ordinary individual who was supposed to be doing business in Davao would attract the attention of FBI agents and the Vice-Consul of the United States of America in this country?

On May 19, 2002, Meiring was discharged from the hospital, driven to the airport, boarded a chartered plane at ten o' clock that morning for Manila, to go to an undisclosed hospital. The pilots of the chartered plane were Capt. Art Santos and Capt. Conrad S. Comia. The passengers were Dr. Johnny Zenon, Nurse Bino Gonzales, Francis Cayaco and Michael Meiring. They boarded a Subic Air-owned aircraft No. RPC 1426 supposedly under the lease of a foundation called International Medical Foundation.

On May 22, 2002 -- please remember that the incident happened on May 16, 2002 -- criminal cases were filed against Meiring for illegal possession of explosives and reckless imprudence that caused damage to property. Warrants of arrest were issued by RTC Judge Isaac Robello Jr. and MTC Judge Oscar Aquino on June 21, 2002. But surprise of surprises, on May 26, 2002, Meiring left the country for Singapore. We do not know where he is now. Incidentally, the address of Meiring in the United States is 381 Smoke Ridge Trail, Calimesa, California. He also had an address in the U.K. which is Patch Hole Manor, Kentishang Ford, North Devon.

I bring this information to this Chamber because the movements of this particular person, Mr. Michael Meiring, has aroused the curiosity and even the anger of the mayor of Davao, Mayor Duterte. He feels that once again, there is an attempt to render for naught the processes of this government. Can we imagine a criminal case having been filed against Meiring and Meiring disappears right under our noses?

I bring this matter to the attention of this Chamber in the hope that the proper inquiry can be conducted, not only into the presence of the so-called spies in Mindanao but also into this particular case of Michael Meiring.

INTERPELLATION OF SENATOR ENRILE

At the outset, Senator Enrile agreed with Senator Pimentel's speech. He asked about the purpose of the spying operation in Mindanao, whether the spying was against the Philippine government, against a foreign power operating in the country, or against a certain segment of the Filipino people. Senator Pimentel informed the Body that newspaper reports disclosed that the spy network was established by the Pentagon and operated in places where American troops are present.

Senator Pimentel said that a contingent of the spy network was brought to Mindanao where American troops were supposedly aiding the Philippine government to ferret out Moro rebels which included agents of the Al Qaeda or Jamiyah Islamiyah. He noted that ostensibly, the objective was to help the government neutralize the foreign terrorists who were operating in the South. However, he expressed concern that in the process, the operation harmed not only combatants from the rebel groups but also Filipino civilians.

Upon further queries, Senator Pimentel replied that aside from agents of the U.S. Central Intelligence Agency who are currently in the country, about 70 U.S. military agents are presently in Mindanao. Further, he stated that based on the report, American intelligence is also operating in Indonesia and possibly in Malaysia. He believed that the 70 agents in Mindanao have been sent by a Pentagon-organized spy network; however, he expressed uncertainty over whether the activities of these people are confined only to Mindanao.

On whether the Philippine government is aware of the presence of these U.S. agents, Senator Pimentel believed that it should since the issue had been exposed principally by the *Washington Post*.

Asked if these agents are covered by the Visiting Forces Agreement, Senator Pimentel said that the VFA does not contain any provision allowing American spies to operate in the country. Further, he stated that if these agents committed an act of extreme prejudice against anyone in the Philippines, they would be outside the scope of the VFA and, therefore, they should be under Philippine jurisdiction.

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However, Senator Enrile pointed out that if the presence of these agents as a component of the American visiting forces is known to the Philippine government, then under the VFA, they would be covered by the agreement including the criminal jurisdiction provision. Senator Pimentel agreed as he stressed that he had voted against the ratification of the VFA.

Clarifying that he had posited the earlier question as a guide for the Committee that might investigate the matter, Senator Enrile then inquired whether Senator Pimentel was aware of other spying operations conducted by other countries in the Philippines. Senator Pimentel said he would not be surprised to learn that there are spy networks from China and any would-be world power that wanted to get as much information about the capabilities of other nations such as the Philippines particularly because of its strategic location.

Upon further queries, Senator Pimentel replied that there are American drug agents in the Philippines who are attached to the U.S. embassy and are part of the U.S. intelligence-gathering service. He believed that any American official attached to the U.S. Embassy as a defense, military or commercial attaché, political officer or consul is a potential spy for the U.S. government in the same way that a Philippine embassy official in the U.S. is a potential spy for the Philippine government. That being the case, Senator Enrile opined that there is no need for other countries to send spies to the Philippines because it is an open society and Filipinos talk too much. He noted that one can just sit in a coffee shop and learn everything that is going on in the government. Senator Pimentel agreed as he recalled an incident where a member of the Department of Foreign Affairs supposedly transmitted vital information by E-mail to his counterpart in the U.S. Embassy.

Asked whether he favored changing the practice of allowing agents of foreign governments to go directly to heads of departments and offices instead of passing through the DFA, Senator Pimentel replied in the affirmative, pointing out that this is the practice of older civilizations, especially of Europe and the United States. He said he found it unthinkable that a Philippine ambassador can go directly to a department head of the U.S. government to discuss matters of national interest.

Senator Enrile asserted that the practice of allowing foreign diplomats to go directly to government offices, which is actually taboo in other countries, is the weakness of the Philippine diplomatic service. He expressed hope that the administration would address the matter to preserve the honor, dignity and integrity of the country while maintaining political, economic and military security confidentialities. Senator Pimentel agreed as he noted that the group AGILE was allowed to penetrate the high economic circle of the government.

Senator Enrile asked whether the Michael Meiring case is similar to the famous Moomey case in 1969 wherein a Private Moomey assigned to Clark Field, Pampanga mistook a Filipino scavenger for a wild boar and shot him and when the Philippine government tried to prosecute him, he was spirited out of the country. Senator Pimentel said that the circumstances of the two cases are about the same.

Senator Enrile informed the Body that as the then Secretary of Justice, he tried to prosecute Moomey for the crime; but instead of receiving help, he was himself investigated by the Senate Foreign Relations Committee.

INTERPELLATION OF SENATOR OSMEÑA

Asked by Senator Osmeña to explain whether the bomb found in the room of suspected spy Michael Meiring belonged to him or was planted by his enemies or those he was spying on, Senator Pimentel said that Meiring, who had leased his hotel room in Davao for over a year, kept two steel boxes in his room that he zealously guarded, one of which exploded according to police reports.

On whether Meiring used any cover during his stay in Davao, Senator Pimentel said that the American had worked with a certain Lito Caballero as a partner of Caballero Salvaging Company, Incorporated which primarily salvaged sunken vessels, as well as located and mined precious metals.

Senator Osmeña theorized that if Meiring was involved in the mining business, it was possible he had explosives in his room in connection with his business rather than with insurgent or spying activities. Senator Pimentel replied that he was not ruling out such possibility.

As to whether Mr. Caballero admitted that his company used explosives for business activities,

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Senator Pimentel replied in the negative, pointing out that police reports did not indicate that the company went into the mining business except to buy gold.

Senator Osmeña wondered whether a police guard was present at the hospital during Meiring's confinement as he noted that a police guard is normally posted at the hospital door of an individual who is under technical arrest until he shall have been formally charged. Senator Pimentel replied that apparently, the police allowed Meiring to leave on the basis of his statement that he wanted to be treated in St. Luke's Hospital in Manila. But he agreed that since Meiring was under the jurisdiction of the fiscal's office having been involved in a criminal case which is the possession of explosives, the police would not have had the power to release him without the approval of the fiscal, except that Meiring was discharged from the Davao Hospital on May 19 while the cases were filed on May 22.

If the police were too lax to leave a gap between the time the crime was committed and the time the charges were filed, Senator Osmeña asked whether there is a law mandating that Meiring should be held in custody until such time he shall have been ordered released. Senator Pimentel explained that technically, before any charges are filed, there is presumption of innocence and, therefore, Meiring could question why he was being held in custody. He affirmed that Meiring was already in Manila when the charges were filed.

Noting that Meiring must have very rich and powerful friends, Senator Osmeña asked whether the government was able to trace the registration and ownership of the International Medical Foundation which chartered the jet that brought Meiring to Manila. Senator Pimentel said that he was not aware of it but the people who accompanied Meiring on that plane were employees, if not officials, of the International Medical Foundation. Senator Osmeña stated that he knows of many medical outfits in the country but he has not heard, so far, of the International Medical Foundation.

On whether the disclosure that the United States had fielded new groups of spies was a voluntary announcement or a leak by a U.S. paper, Senator Pimentel replied that he had read it in the *Washington Post* but tell-tale signs indicate that it came from official sources.

To the opinion that the announcement was a signal on the part of the U.S. government that it is turning up the heat one or two notches, Senator Pimentel agreed, especially because President Bush probably needed an infusion of new tactics to convince the American public that he is on the right track and fighting terrorism anywhere in the world.

Senator Osmeña observed that there have been many agents from several countries operating in the Philippines but they cannot easily be arrested unless proven that they have been engaged in spying activities. Since intelligence is a collection of information which has political or military value, essentially or technically, he said that every American citizen, if asked, would be in a position to offer information to his/her government. But what is bothersome, he said, is that the Visiting Forces Agreement that the Senate ratified in 1999 made the Filipino a second-class citizen *vis-a-vis* the Americans in his own country. He recalled that he objected to the VFA because what the Americans wanted and what they obtained in the VFA was not so much the cooperation as the right to spare any and all Americans who might be involved in crimes from Philippine jurisdiction. He pointed out the need to revisit the VFA in the light of the Meiring case.

In addition, Senator Pimentel disclosed that a document called the Bilateral Immunity Agreement, signed by a Philippine general, recognizes the exemption of American troops from the jurisdiction of Philippine courts. He said that the Executive department viewed the undertaking to be in the nature of an executive agreement that is not subject to ratification by the Philippine Senate, that is why Congress does not have a copy of the Agreement. He said that the Philippines is one of the 94 countries which have Bilateral Immunity Agreement with the U.S.

Asked why a general and not a DFA official was a signatory to the Agreement, Senator Pimentel replied that he also wanted to raise this question. He wondered how a general can exempt from the jurisdiction of the Philippine court erring American soldiers. He stressed the need to summon the documents from the DFA or the AFP or the Office of the President, so Congress can study its constitutionality.

Senator Osmeña deplored that the United States to date has refused to submit itself to the jurisdiction of the International Criminal Court and has pressured its allies like the Philippines not to submit the treaty for ratification by the Philippine Senate.

Senator Pimentel believed that the U.S. has entered into bilateral immunity agreements with 94 countries as a device to exempt it from the jurisdiction of the International Criminal Court in the event that the treaty would be ratified by signatory countries. He agreed that the immunity agreements would be laying the basis for future actions like the Iraq invasion and protecting American troops who would commit war atrocities from the jurisdiction of the invaded country. He disclosed that one of the fears expressed by the Americans at the New Zealand symposium was that the U.S. Secretary of Defense or even the U.S. President could be summoned by local courts should American troops be subjected to the jurisdiction of the host country for violating the latter's laws.

However, Senator Osmeña expressed doubt whether such is the real concern of the U.S. He believed that the U.S. wants to institutionalize the two-level justice system so that it can continue to hold captives without charges, without access to lawyers and without trial as it did in the case of prisoners from the Afghan war. He contended that the wide disparity in the application of standard norms of justice ensured that the Americans could escape punishment in another country while they could torture anybody caught violating U.S. laws. He expressed the view that more nations should come together and ask the U.S. to apply the same standards of justice it would apply to its own citizens.

Senator Pimentel pointed out, however, that U.S. courts have ruled on the illegality of detention and torture in U.S. prisons and detention areas like the one in Iraq. Such ruling demonstrates the sense of fairness in the American justice system which counters the Executive department's tendency to run roughshod on the rights of people elsewhere in the world, he said.

Senator Osmeña clarified that he has always made a distinction between the American people and a handful of bureaucrats in the White House, State and Defense departments. He stressed that 99.99% of the American people are decent,

trustworthy and apply the same standards of justice and fairness to others as they do to themselves. But he expressed concern that as the only superpower in the world, an America influenced by bureaucrats intoxicated with power, could step on any little nation.

Adverting to Senator Enrile's interpellation, Senator Osmena asked whether it was improper for an American ambassador to get in touch with any Philippine official without informing the Department of Foreign Affairs.

Senator Pimentel stated that consular practice followed by the more advanced countries in the world would forbid, for instance, the American ambassador from going directly to President Macapagal Arroyo as protocol requires such a meeting to be arranged through the Secretary of Foreign Affairs. But he did not think it would be improper for the American ambassador to get in touch with a Philippine senator or the latter to get in touch with his American counterpart or a U.S. official as there is no prohibition on people-to-people relationship between a Philippine legislator and officials of another country.

INTERPELLATION OF SENATOR BIAZON

Asked if there was a formal investigation of the incident involving Meiring, Senator Pimentel replied in the affirmative. He said that two charges were filed against Meiring – one, in the Regional Trial Court of Davao and the other, in the Municipal Trial Court. He said, however, that the warrant of arrest was issued after Meiring had been spirited out of Davao.

On whether Meiring's case is covered by the extradition treaty between the United States and the Philippines, Senator Pimentel stated that it is, technically speaking.

Asked if there was any attempt to extradite Meiring so that he could face the charges filed against him, Senator Pimentel said that he was not aware of any such move.

On whether Meiring was involved directly or indirectly with the Balikatan Exercise of 2002, Senator Pimentel said that he was not aware of Meiring's involvement in the exercise. Senator Biazon posited that if Meiring was a

participant in the exercise, he should have been covered by the Visiting Forces Agreement.

Asked if there was an attempt by the government to look into the status of Meiring relative to the conduct of the exercise, Senator Pimentel replied that he had no knowledge thereof. However, he said that he found it very unusual for three FBI agents – John Gray, Robert McDowell and Adalberto Rivera — to visit Meiring a day after the blast. He added that Vice-Consul Michael A. Newbill also came to see Meiring on that same day. He said that except for Mayor Dueterte of Davao, the government showed no interest in the goings-on between Meiring and U.S. government officials. He stated when Mayor Dueterte started asking questions about Meiring, the American mysteriously disappeared.

Asked if Meiring was using a tourist passport or a diplomatic passport, Senator Pimentel replied that Meiring used an ordinary passport. He said that because Meiring had been in the Philippines for some time, his visa had been extended; however, he had not been given a permanent resident visa.

Senator Biazon stated that if Meiring was not part of the Balikatan Exercise 02-1, he should have been treated by the government like an ordinarily foreign national.

Asked if there is a law on espionage, Senator Pimentel replied that under criminal law, spying for a foreign country and placing the Philippines in a situation which could provoke a war with another country is penalized under the Revised Penal Code. Senator Biazon explained that the Articles of War provides that during times of war, the penalty for spying is death. However, he said that the late Senator Tolentino asserted that this provision in the Articles of War had been amended by the 1987 Constitution. He added that if the death penalty on war crimes such as espionage, giving aid and comfort to the enemy, etc., would be restored, then there would be a need to reenact the Articles of War. Furthermore, he said that Senator Tolentino had cautioned that adding war crimes to the list of heinous crimes would create a long list. He affirmed that the Revised Penal Code penalizes spying on behalf of another country, friendly or hostile.

Senator Biazon suggested that the Senate conduct an inquiry into the Meiring case and the

reported presence of 70 American spies in Mindanao. Senator Pimentel surmised that the number of spies in the country could reach a thousand, some of whom may even be inside the Session Hall.

Senator Biazon believed that the National Intelligence Coordinating Agency, the military and the police intelligence are in the best position to ascertain the veracity of the reports. Senator Pimentel stressed that he raised the issue so that a proper investigation could be made and reports could be verified as he added that the Body should not formulate policies based on hearsay.

On another matter, Senator Biazon informed the Body that in the recent hearing conducted by the Congressional Legislative Oversight Committee on the Visiting Forces Agreement, the Secretary of Foreign Affairs said that the Mutual Defense Treaty has acquired a new dimension because Balikatan exercises had been conducted to combat drugs and terrorism. He said that this new dimension has created a gray area because the question is whether the Americans who are training their Filipino counterpart are covered by the VFA.

Thereafter, Senator Biazon moved that the Oversight Committee on Intelligence be formed to look into the concerns raised by Senator Pimentel.

Senator Pimentel pointed out that the war on terrorism has added a new dimension to the security problem because theoretically, the U.S. troops participating in the Balikatan are supposed to enhance the security of the Philippines. He said that the 9/11 incident has radically altered the configuration of security among nations, which gives relevance to the use of the Balikatan as a vehicle for fighting terrorism. However, he doubted the allegation that terrorists use narcotics as a source of funding. Once this is accepted as an excuse to hold the exercises, he said, it would expand the intent and coverage of the VFA.

Thereafter, Senator Pimentel supported the motion of Senator Biazon.

REFERRAL OF SPEECH TO COMMITTEE

Senator Pangilinan informed the Body that the Oversight Committee on Intelligence has yet to be

constituted. He also informed Senator Biazon that Senator Gordon has filed a resolution on the same subject which the Body would take up in the next day's session.

Upon motion of Senator Pangilinan, there being no objection, the Chair referred the privilege speech of Senator Pimentel and the interpellations thereon to the Committee on Rules until the Oversight Committee shall have been organized.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:04 p.m.

RESUMPTION OF SESSION

At 5:05 p.m., the session was resumed.

QUESTION OF PRIVILEGE OF SENATOR OSMEÑA

Rising to a question of personal and collective privilege, Senator Osmeña spoke on the financial troubles of the College Assurance Plan whose Health Maintenance Organization has been contracted by the Senate to service the health needs of its officers and employees.

The full text of his speech follows:

Last night, late after office hours, I was jolted when one of my staffers gave me a health card which reads "CAP Health Maintenance Organization." In other words, the Senate has now contracted with the College Assurance Plan Health Maintenance Organization to serve or to augment the health needs of the employees of the Senate, both in the offices of the senators and in the Secretariat.

I do not know who signed this contract. CAP has been bankrupt for three years. It is trying to keep its head above water.

As a matter of fact, the latest issue of *Newsbreak* dated January 31, 2005, reports that CAP just issued bouncing checks all over the country. In UST alone, 10,000 of

those students who were supposed to be covered by CAP Educational Plans were informed that UST would not be accepting CAP checks any longer and that the students themselves would be responsible for paying tuition and whatever fees they owe the school.

Let me just read the first paragraph of this article:

Mike Kelly Villaflor, a second year Fine Arts student at the University of Santo Tomas, should be home studying for his exams. Instead, he is one of the thousands of exasperated students and parents besieging the offices of the College Assurance Plan Philippines, Inc. (CAP) in Makati, pounding on office windows and tables.

Villaflor had hoped to encash a check issued to him by CAP that afternoon to pay his long-delayed tuition due last November. The school posted a list of some 10,000 students whose CAP-issued checks had bounced, and his name was on it. His mother died of cancer last year and she had thought she had secured her son's future by leaving him an educational plan with CAP.

By way of background, about three years ago, the Senate Committee on Banks, Financial Institutions and Currencies had a couple of hearings on the Pre-Need Code. In one hearing, the topic was the actuarial deficiencies of the College Assurance Plan. At that time, the estimate was about P5 billion. Today, the estimate has ballooned to P18 billion.

CAP, by the way, is a pioneer in the pre-need industry. The education program has become a model for several other pre-need companies to emulate.

However, CAP has been badly managed. Its trust fund, particularly, had been invested in stocks of sister companies,

in other words, companies that were owned and controlled by the same group of officers that owned and controlled CAP. And because these companies were mostly dealing in real estate, and real estate market had collapsed since 1997, i.e, the shares that were being held by CAP had dropped by as much as 57%, CAP cannot now service what it promised to service, cannot pay what it promised to pay all its plan holders when their plans matured.

That is happening today, that has been happening for the past few years. I do not know why the Senate Secretariat signed this contract. I want the Committee on Rules and the Committee on Accounts to investigate this as soon as possible.

Let me read some dispositive portions from the report on CAP. Actually, I think no one in this Chamber is unaware of the magnitude of problems that the College Assurance Plan has been facing:

The deficiency has leapfrogged by 2003 to P17.2 billion. However, independent actuaries calculate the deficiency then to have stood at P25.7 billion.

Ang ginagawa po ng CAP ay tuma-tanggap po sila ng payments for five years. In return, sila po ay nagko-commit na "in ten years' time, when your child is now going to enter college, we will pay the tuition of your child."

So, therefore, *ang ginagawa po nila* is they have to invest the collection that they make today for the first five years so that there will be enough money in ten years' time to pay for the tuition of that child.

What has been happening is that they have not been investing those funds properly, so today, CAP has to sell plans to get the cash to pay existing obligations to send kids to school, and still, their checks have been bouncing all over the place.

Secondly, CAP has been evading the rules, the strictures that have been imposed on them by the Securities and Exchange

Commission and using politicians to exert pressure also on the SEC. In one of the hearings in the Senate last month on the SEC budget, I scolded, and I had reason to scold, Chairman Fe Barin because I had just read that day or the day before in the newspaper that she was being pressured to approve an anomalous, voodoo type of a capital infusion of a certain Romeo Roxas of the infamous Green Circle properties that Senator Madrigal mentioned in her speech yesterday who allegedly has ownership or control of some 30,000 to 80,000 hectares in Infanta, Nakar, Real and Dingalan Bay where he would infuse a 3,000-hectare, P6-billion property in Quezon Province into the trust fund of CAP.

No one in his right mind would accept this. *Bakit po?* P6 billion divided by 3,000 hectares is roughly P200 per square meter.

Now, if you are going to put property at P200 per square meter, then maybe property around Tanauan or Lipa would be in that market value. But not in Dingalan Bay, or in Infanta, or in General Nakar, or in Real. *Talagang kalokohan ho.*

Number two. Real estate is not a liquid property. It is not a liquid asset. In other words, *maski kailangan pong bayaran ang mga obligations ng CAP, ano ang gagawin ninyo sa lupa? Siguro iyan po ang ibibigay sa mga planholders ng CAP. "Heto na lang, may 1,000 square meters po kayo sa Real o Dingalan o Infanta o General Nakar."*

Number three. The report that Green Circle Properties owns and/or controls 30,000 to 80,000 hectares—and again these numbers are very vague because these are just coming from Green Circle—should really be viewed with a lot of suspicion. *Bakit po?* First, there is no property owner in the country that has that much property, and all of a sudden *pumutok ito*. So there is some funny thing going on here, and I am being very kind.

Number one, under the Agrarian Reform Code, I doubt if anybody can keep 30,000 to 80,000 hectares.

Handwritten initials/signature

Number two. Nobody in the entire history of this country has ever reported owning such a massive amount of property.

Let me give you an example. I think that the biggest landholder in our country's history that I have heard of would be the Roxas family which owned practically half of Batangas, which is now down to Central Azucarera Don Pedro in Nasugbu, and some farms. Although I think they owned for a while even Mount Batulao and all the way up to Calatagan, and the Calatagan property was subdivided and put in the name of its relative, the Zobel family, which today has control of Ayala Corporation. But that probably amounted to about 22,000 hectares, and that was the biggest single piece of land in this country.

Now, for the SEC to be forced to accept 3,000 hectares at a value of P200 per square meter, not even counting roads and open spaces which normally take up 30% of development cost of a property, is adding insult to injury.

Green Circle has been coming out with several articles bruiting that it is building a whole new city in Infanta, General Nakar and Real, Quezon and is asking the *Bangko Sentral ng Pilipinas* to float bonds to develop the property for them. I think this is the biggest scam in the history of the country. This will not be the grandmother of all scams but the grandfather of all scams if this holds true. But I doubt if they will get away with it.

I would like the Senate leadership to look into the reason why we signed a health maintenance contract with CAP when in truth and in fact—and this article is very clear—CAP has been borrowing or getting advances from its sister companies. Whether this is a separate corporate group, the fact remains that it is a CAP subsidiary. It is subject to CAP control and it cannot and should not be made the health maintenance organization for Senate employees because there will come a time when their checks will bounce and the Senate employees will be coming to us here

in the Senate saying, "Sir, can you help me with my medical bills?" because CAP could not pay what it had obligated itself to pay when we signed the contract.

This bothers me, and I hope that the Committee on Accounts will be more careful in approving contracts like this. There are several other HMOs that are still financially stable, and I do not know why this year we changed to a bankrupt health maintenance organization.

INTERPELLATION OF SENATOR BIAZON

Asked by Senator Biazon whether CAP is promoting a new concept, Senator Osmeña stated that pre-need is probably the underlying idea behind every insurance—whether life, medical, accident or fire. In other words, he said, one starts contributing for a specific purpose and in return gets a commitment from the company to be paid a certain amount of money in the future when the need arises.

Asked whether the college assurance plan is a novel thing in the country, Senator Osmeña replied that the college assurance plan is a new concept that spinned off from the original insurance concept which actually meets a defined obligation in the future at a certain period; in other words, insurance is only paid when one dies which the company cannot predict, but not when the person commits suicide.

Expounding on CAP's education plan, Senator Osmeña stated that there is a specified time or a target when it would pay for a child's schooling for four years in college. The problem, he said, is that CAP thought that tuition fees would not increase so fast which, unfortunately, happened after the education department deregulated tuition fees in 1992. He said that before then, CAP thought it could predict what its obligation would be ten years hence.

Senator Biazon said that he had also pointed out the same mistakes in the actuarial studies of RSBS that failed to consider future variables which eventually caused the nonpayment of retirement pensions in the amount of P35 billion.

Asked whether there are laws to regulate pre-need companies such as CAP, Senator Osmeña

said that the Pre-Need Code has long been pending in the Committee on Banks, Financial Institutions and Currencies which, unfortunately, has never been able to come up with a report. He said that when he was asked to take over its chairmanship in May 2003, he could not find time to craft a good Pre-Need Code and, after the elections, another Chair took over.

Senator Biazon disclosed that when one of his acquaintances went to the CAP to encash his check, he was told to be a little more patient because the company would fund all the checks after it shall have disposed of its properties. He lamented that in the absence of a law, it would be difficult to impose criminal sanctions on CAP, except for violation of the bouncing checks law.

Senator Osmeña disclosed that thousands of complainants have been going to the CAP offices in Manila, Cebu and Davao because checks have bounced. Further, he said, no criminal investigation has been launched against the officers of CAP which is not so puzzling looking at the roster of former CAP officers.

Asked to name the officers of CAP, Senator Osmeña mentioned that in the list are former Senator Manuel Manahan (1980-1994); former President Diosdado Macapagal (1995-1996); former Senator Raul Manglapus (1996-1999); and former Education Secretary Alejandro Roces (2000-2004). He added that the CAP HMO was headed by former Health Secretary Alran Bengzon who recently resigned. He then read a portion of the *Newsbreak* article, to wit: "Since CAP Pension has its hands tied, an insider who spoke on condition of anonymity, told *Newsbreak* that CAP Health was recently asked to advance P180 million to ease the cash requirements of CAP." CAP Health, he noted, was asked to raise P2.5 billion to service maturing tuition for the years 2004-2005, and this prompted Dr. Bengzon to resign.

Senator Osmeña further commented that this problem has been going on for quite some time but because of CAP's strong political connections, it has been able to stretch out its dying days. He explained that with an P18-billion liability, there is no way the company can be revived, thus, it is better to close it rather than allow it to sell more plans, including the health maintenance of the Senate. He expressed

apprehension that the present cash flow from the Senate is being used to service existing obligations, so that it is likely that there may not be enough money to service the obligations to the Senate employees when the time comes. This, he said, is very serious, considering that the extent of bankruptcy is around P15 billion to P20 billion.

Replying to further query, Senator Osmeña affirmed that the situation of the old clients could worsen should the enrollment of new clients who pay for the present obligations is stopped. But he stressed that it should not be at the expense of the new clients who have not been properly warned.

Given the present situation of CAP, Senator Biazon asked if there is a need for a legislation to regulate the industry. Senator Osmeña replied in the affirmative, adding that there was an attempt to push through such a legislation for five years, but there was some resistance because the owners of CAP are very influential, particularly with the present administration. He clarified that CAP had been regulated to a certain extent but the SEC is not organized and geared to regulate CAP in the absence of an appropriate law.

INTERPELLATION OF SENATOR ROXAS

At the outset, Senator Roxas congratulated Senator Osmeña for highlighting the ongoing financial travesty that does not only affect the Senate staff but also hundreds of families across the country.

As regards the business model the CAP uses, Senator Roxas noted that it offers a service where after making several payments, it would provide a lump-sum in order to pay for some need – education, health or pension – and this is called annuity. Senator Osmeña noted that it is annuity with a limited time, as in the case of a four-year college education.

Senator Roxas explained that it is an annuity where the value of the payments, at some point, grows to become the value that is expected at a definite future date. He pointed out that the original policies that CAP underwrote and sold to the public were of an "open-ended nature," meaning that it was not a fixed sum, thus, the company would pay the tuition regardless of the amount. Senator Osmeña opined that this is the scheme that

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made the CAP education plan very attractive but it only held true up to a certain point.

Senator Roxas noted that while the payment schemes were of definite value, the benefit was indeterminate in the early years because whatever the tuition would amount to would be CAP's commitment. Senator Osmeña stated that CAP took the chance because tuition fees were not regulated until 1992 at which time, it started experiencing problems. He added that other pre-need companies that got into the same trouble changed stock and committed only a certain amount because they could not predict anymore how fast tuition rates would increase. CAP did not, he said, so it is now in trouble because of mismanagement.

Senator Roxas disclosed that 80% of the outstanding education policies of CAP are open-ended, thus, while the company has received money from the plan holders in the past, it has no idea what the payout would be once the policies come due. That is the source of the huge actuarial reserve liability, he noted. Senator Osmeña bared that 91% of the plan holders have traditional plans because CAP keeps marketing them, and that the explosion in tuition fees is only part of the problem because CAP itself did not invest the trust funds properly. He averred that this in itself is a crime because the trust funds belong to the plan holders.

Senator Roxas agreed with Senator Osmeña, adding that the points the latter raised highlight several areas for appropriate legislative reform: regulation; amounts to be paid-in from the payments from the plan holders; the relationship between the trust fund and the plan company; and the disclosure of statements. He reiterated that CAP's financial standing is irredeemably in trouble.

Senator Osmeña noted that it is gross misrepresentation when CAP employees assure the plan holders that the company would be able to repay them once its properties are liquidated, making their clients believe that CAP's problems are temporary when in truth, there is no way CAP could resurrect itself despite the capital infusion through the disposition of 3,000 hectares of land. The so-called \$300 million loan from an American company that was headlined in the *Business World* is a nonstarter, he said. He added that if CAP borrowed such amount, it would have to pay interest

of 9% or 10% and put up collateral. He pointed out that CAP would have to earn at least 10% to break even to be able to pay its loan. With returns from its trust fund in the last three years — 4.95% in 2001; 3.1% in 2002; 1.1% in 2003 and 2.5% for the first nine months of 2004 — Senator Osmeña pointed out that it meant a loss of 7.5%.

Senator Roxas stated that there are many aspects with regard to the issue of CAP and one is for the Senate as a Body or for the senators, individually, if they so decide, to issue appropriate warning to the public. Another, he said, is the crafting of appropriate regulation so that the industry could be regulated.

INTERPELLATION OF SENATE PRESIDENT DRILON

At outset, Senator Osmeña clarified that there were 780,603 CAP education policy holders.

On the investment of CAP funds in related companies such as Fil-Estate, Senate President Drilon asked if such violates the trustor-trustee relationship between the head of CAP and the major stockholders of Fil-Estate. Senator Osmeña replied in the affirmative, pointing out that the matter came out during the hearing three years ago but unfortunately, SEC did not set rules on the pre-need industry. He said that it was only when Lilia Bautista took over that she expanded the regulations. Any trust-management agreement, he pointed out, would always entail an arm's length relationship and that self-interest would not be taken into consideration in the management of the pre-need company.

Senate President Drilon believed that there is no need for a separate regulation because the provisions of the Civil Code on trust precisely require such diligence of a trustee in taking care of the trust funds to avoid transactions that are less than arm's length.

Senator Osmeña deplored the application and enforcement of laws under the present administration. He disclosed that during said hearing, it was revealed that CAP did not consider itself as trustee but rather it considered the banks to which it handed the funds the trustee banks. He said that upon close questioning of the banks, he was told that CAP first bought the shares of Fil-Estate and then offered them to the bank so it could claim that the

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bank was managing the shares; but, in fact, CAP was the one telling the bank when to sell and buy. He added that since 60% of its trust assets were with the Bank of Commerce where Mr. Sobrepeña had a sizeable ownership of common stocks, he could, in effect, indirectly manage the funds himself.

On whether he knew that there were two committees formed by the SEC to look into the affairs of CAP, Senator Osmeña replied in the affirmative but he said he did not know that two reports were submitted, even as he wondered whether the reports were conflicting.

Senate President Drilon stated that the two committees were consistent in their findings that there were violations of the trust relationship and that it was almost impossible to rehabilitate CAP. A member of the second committee, he said, quit after submitting the second report.

On the suggestion that these reports be subpoenaed, Senate President Drilon agreed, saying that these reports were kept from the public by SEC.

As far as the HMO for the Senate is concerned, Senate President Drilon stated that the contract was awarded to CAP HMO about two years ago. In the renewal, he disclosed, no other company bided because the HMO companies did not find the Senate to be very profitable. None of the employees, he added, has complained about unpaid claims. However, he stated that the Body should look into the matter.

Senator Osmeña said that he used to pay benefits to CAP Health in Cebu for certain organizations but late last year, he decided to stop the payment because he thought that it would be throwing good money after bad.

Senate President Drilon thanked Senator Lim for giving way to him, as he would be attending the mass for Speaker De Venecia's daughter.

INTERPELLATION OF SENATOR LIM

Asked by Senator Lim whether the matter he disclosed is a case of swindling, Senator Osmeña said that the issue on CAP was exposed a long time ago but it continues to do business today

because of strong political backers. The Senate, he stated, has to protect the public, pointing out that CAP has 780,000 educational planholders whose claims CAP could not pay.

On the observation that the anomaly has been going on for four years but the government is not making a move to stop the scam, Senator Osmeña disclosed that SEC Chairperson Barin admitted that politicians were pressuring her to approve the plan for the conversion of 3,000 hectares into P6 billion equity in CAP and the \$300 million loan from a probably nonexistent company in the United States. He stated that he has applied countervailing pressure on these politicians.

Senator Lim said that the CAP issue only proves that there are influential people who protect the swindlers who take away not only people's money but more importantly the hope of parents for their children to finish college.

Asked how the scam could be stopped, Senator Osmeña stated that the Body could enact a new code for pre-need companies that would provide insurance for plan-holder's money in the same manner that the Philippine Deposit Insurance Corporation (PDIC) refunds the deposits of clients when a bank closes down. He pointed out that of the 780,000 plan holders, 382,000 have fully paid their premiums while 164,000 are still actively paying theirs.

Senator Lim commented that the law is used against the poor who are framed up and imprisoned while the rich, who run away with the hard-earned money of ordinary people, are protected by politicians. Senator Osmeña agreed that the rich and the powerful are treated differently and many of them are exempt from the law, pointing out that in the Senate alone, scams have been exposed but no change has been filed against individuals like Mr. Jose Pidal and former Secretary Nani Perez as the discretion of investigating authorities is heavily in favor of those who are in cahoots with the administration.

On whether a government is established to defend and protect the law-abiding and upright citizens, Senator Osmeña replied in the affirmative, saying that if the laws are not enforced, it would give way to anarchy. He believed that the "law must apply to all or none at all."

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Asked whether a strong government should protect the interests and rights of the innocent victims of crimes otherwise, it is a "wrong" government, Senator Osmeña stated that a strong republic could only be based on strong institutions like the Supreme Court, Department of Justice, and the PNP which should favor nobody. The country, he said, is a weak republic because the institutions are weak, corrupted and could not stand up to close scrutiny. He believed that until the institutions are strengthened, the people could not say that they have a strong republic.

With the disclosure by Senator Osmeña of the very big problem that CAP is facing regarding its pre-need program, Senator Lim believed that the crime of syndicated estafa had been committed, thus, it was time the Senate called the attention of law enforcement agencies to take all the necessary actions against those who took advantage and perpetrated a crime against the ordinary people.

To show the public that "crime does not pay," Senator Lim said that it would be good if the PNP could start arresting the parties involved in the scam who bribed their way around. He said that if President Macapagal Arroyo would order the arrest of the officials of the CAP involved in the anomaly, he would offer himself to personally arrest them no matter how high they are in society. He said that if the Senate would take the matter lightly and just allow the perpetrators who have strong influence to continue with their illegal activities, nothing would happen

Senator Lim reiterated that the government should go out of its way to show the more than 700,000 plan holders of CAP that it is willing to protect and defend their interest. He challenged the PNP, the NBI, and the Department of Justice to stand up and enforce the laws.

Senator Osmeña agreed with Senator Lim as he expressed concern that the 780,000 plan holders could march to the Senate and ask why the senators did not issue any warning. He informed Senator Lim that Senator Pangilinan would move to refer the matter to the Committees on Trade and Commerce; and Banks, Financial Institutions and Currencies; and the health maintenance contract to the Committee on Accounts. He said that after one or two hearings, these committees would be able to recommend the arrest of the people involved in the scam.

Senator Lim feared that one or two of plan holders might run amok and take the law into their hands. He placed into the Record that if the Department of Justice would support his action of making the personal arrest, he would do it because there is a continuing crime which the law enforcement agencies do not seem to understand. He explained that to effect the arrest, all the police authorities have to do is to simply ask the CAP officials if they are willing to refund the money of the plan holders and if the reply is in the negative, a warrantless citizen's arrest could be done. However, he voiced his apprehension that if the suspects are presented to the inquest fiscal, the prosecutor, who had been bribed, might say that the suspects cannot be arrested.

INTERPELLATION OF SENATOR PIMENTEL

Stating that his driver and a cousin in Bulacan were also victims of the scam, Senator Pimentel asked what action should be taken by the Senate to address the concern of the victims. Senator Osmeña informed the Body that the proposed Pre-Need Code, which is supposed to address all the deficiencies in the regulation of pre-need companies, is still pending in the Committee. He admitted, however, that he does not know what immediate action the Senate could take except to investigate and make recommendations. He pointed out that the scam has been allowed to go on for a long time and between 2001 and 2002 when the Senate conducted its hearing, CAP was able to entice another 200,000 to 300,000 additional plan holders.

Asked if the actuations of CAP after it had gone bankrupt constituted false advertising, Senator Osmeña replied that CAP had not officially declared bankruptcy but he pointed out that anybody who has P25 billion in liabilities and P8 billion in assets is definitely bankrupt.

On whether there are local rating companies that rate pre-need companies, Senator Osmeña replied that the Philratings, which is headed by Santi Dumlaog, is the only ratings company in the Philippines. But he clarified that there is no need to rate CAP because even if P6 billion worth of real property is infused into it, there is no way it can get out of its tight financial bind. He reiterated that the Senate should stop CAP from fooling the public.

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Senator Pimentel agreed with Senator Osmeña. However, he pointed out that the people are already tired of so many investigations that do not give relief to the innocent victims. He suggested that the Senate find an easier and faster way of resolving the scam.

A single hearing, according to Senator Osmeña, could establish a *prima facie* case and prompt the NBI to take the proper action and for the SEC to take more serious steps in providing solutions to the problem.

On whether the problem of CAP was not taken up in previous investigations, Senator Osmeña replied that during the hearing on the Pre-need Code, he, the SEC and the administration were already aware of the serious problems of CAP.

In this regard, Senator Pimentel disclosed that the investigation by the U.S. Senate of the closing of American companies like Enron and Tyco revealed that the monies of stockholders were misused, and so the U.S. SEC was proposed to be strengthened to run after erring corporations. He expressed doubt whether the Philippine government could do the same.

Senator Osmeña pointed out that precisely, the Pre-need Code would strengthen the regulatory powers of the SEC as he informed the Body that he is crafting a bill which would consolidate in one body all the regulatory powers of the BSP, the SEC and the Insurance Commission for all types of financial instruments.

Senator Pimentel asked if the Senate should adopt a resolution advising the people to be cautious about investing in CAP as the Senate is in possession of adequate evidence against it. Senator Osmeña remarked that a hearing could be called the following day but CAP officials might say that they were not given a chance to clarify their side. He suggested giving CAP ample time to explain, although he noted that the evidence against it is overwhelming. A hearing, he said, might just bring to the Senate a lot of people who have lost their money in CAP. Senator Pimentel said that there were many Senate employees who insured their children under CAP and given the circumstances, the future of their children is not clear.

Senator Osmeña stressed that CAP is not the only pre-need company that is in trouble,

but one whose trouble is even worse because its problem is more sensational. Senator Pimentel agreed that a public hearing within the week be called. Senator Osmeña said that he would leave the matter to the discretion of the Chair of the Committee on Banks, Financial Institutions and Currencies. He expressed hope that the Senate could transfer to another health maintenance organization that is in better financial shape.

Finally, Senator Pimentel said that this action of the Senate is not only for the Senate employees who are assured of a preferential treatment from CAP, but for the protection of other plan holders.

INTERPELLATION OF SENATOR LACSON

Initially, Senator Lacson queried if Senator Osmeña was aware how much it had cost the Senate to enter into a contract with CAP. Senator Osmeña replied that he did not have the information.

Asked where the funds came from, Senator Osmeña replied that the Senate has funded this *continuing program*. He added that he had always thought that the Senate's HMO is Philam Care.

Senator Lacson expressed hope that all the answers would come out in the investigation.

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Pangilinan, there being no objection, the Chair referred Senator Osmeña's speech and the interpellations thereon to the Committee on Banks, Financial Institutions and Currencies as the primary committee and to the Committee on Trade and Commerce as the secondary committee; and the issue of the contract entered into by the Senate with CAP to the Committee on Accounts.

RECONSIDERATION OF THE APPROVAL OF THE JOURNAL

Senator Pangilinan stated that under Section 55 of the Rules of the Senate, a senator can move for its correction not later than three session days following its approval.

Upon motion of Senator Pangilinan, there being no objection, the Body reconsidered the approval of

the Journal of Session No. 52 (January 18) to allow Senator Pimentel to make corrections.

**APPROVAL OF JOURNAL NO. 52
AS CORRECTED**

Upon motion of Senator Pangilinan, there being no objection, the Journal of Session No. 52 was approved by the Body subject to the correction made by Senator Pimentel on page 109, left column, first paragraph, to insert between "could" and "be," the word NOT; and after the word "done," to delete the rest of the paragraph and in lieu thereof, to insert the phrase BECAUSE THE MEASURE WOULD ENTAIL, HOWEVER MINISCULE, ADDITIONAL EMOLUMENTS.

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. 54 and considered it approved subject to the correction made by Senator Lim on page 238, right column, under the


caption MANIFESTATION OF SENATOR LIM, to insert before the first paragraph the following paragraph: PRELIMINARILY, SENATOR LIM THANKED THE CHAIR FOR GIVING HIM THE OPPORTUNITY TO MAKE OF RECORD HIS NO VOTE ON THE LATERAL ATTRITION 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 the following day.

It was 6:34 p.m.

I hereby certify to the correctness of the foregoing.


OSCAR S. YABES
Secretary of the Senate
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Approved on January 26, 2005