

CP-SENATE
JOURNAL
88

Republic of the Philippines
SENATE
Manila

FIRST REGULAR SESSION

JOURNAL

SESSION NO. 88
Wednesday and Thursday, June 5-6, 1996

CALL TO ORDER

At 5:07 p.m., the Senate President Pro Tempore, Hon. Leticia R. Shahani, called the session to order.

PRAYER

Sen. Francisco S. Tatad offered the following prayer:

Lord, we adore You, praise You and thank You for Your goodness.

As we end one season of toil and prepare for the next, keep us ever true to Your will and to Your laws.

We know how much we have taxed Your patience with our failings and our follies; how often we have thought only of ourselves, put our rights and privileges above our duties to others, listen only to what is said by us and not to what is said to us by others. How often, too, we have behaved as if the world would be cast in total darkness if we were not here to brighten it.

Rebuke us and correct us in our ways and show us our real place in Your scheme of things so that we would once again see our nothingness; then all our false worship of self shall cease and we shall see that we have not become indispensable even in the work that we do best. That we need not be permanently around to ensure the continuity of democracy, virtue or excellence; then we shall begin to try to do all things well without any undue desire to be noticed.

Amen.

COMMITTEE REPORT NO. 78
ON SENATE BILL NO. 950

Upon motion of Senator Romulo, there being no objection, the Body considered, on Second Reading, Senate Bill No. 950 (Committee Report No. 78), entitled

AN ACT PRESCRIBING A SPECIAL LAW ON RAPE, EXPANDING THE DEFINITION OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, PROVIDING EVIDENTIARY REQUIREMENTS AND PROCEDURES FOR THE EFFECTIVE PROSECUTION OF OFFENDERS, AND INSTITUTIONALIZING MEASURES FOR THE PROTECTION AND REHABILITATION OF RAPE VICTIMS AND FOR OTHER PURPOSES.

Pursuant to Section 66, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Romulo, only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

The Chair recognized Senator Shahani for the sponsorship.

SPONSORSHIP SPEECH OF SENATOR SHAHANI

In sponsoring Senate Bill No. 950, Senator Shahani delivered the following speech:

SHIFTING PARADIGMS OF RAPE:
LAW REFORM AS A STEP TOWARDS THE ELIMINATION
OF VIOLENCE AGAINST WOMEN

It is an idea whose time has come. The need for drastic reforms in the Philippine law on rape was born out of the seeds of tragedy of the women victims of violence themselves. It is also drawn from the richness of experiences and collective consciousness of other women who, in so many ways possible, respond to this growing phenomenon.

I have the honor to report out of the Committee on Women and Family Relations Senate Bill No. 950.

The gross inadequacies of our present law on rape in protecting victims and sanctioning perpetrators has made legal reform a compelling

necessity towards the elimination of violence against women. Realistically speaking, amending laws on paper is not enough to ensure change. Gender violence is an extremely complex issue, deeply rooted in the unequal power relations between the sexes, self-identity, sexuality and social institutions. Any approach to eliminate violence against women must confront the deeply ingrained cultural beliefs and social structures that perpetuate it. No less than a deconstruction of our culturally-accepted notions of gender stereotypes is needed to succeed in the effort.

But a strong law adds a considerable armor in helping women protect themselves. Focusing on the issue of rape, three (3) critical tasks in legal reform challenge us: 1) eliminating and changing aspects of the law that are prejudicial to women; 2) removing the barriers to prosecution; and 3) institutionalizing protective measures to ensure the rehabilitation of rape survivors.

Senate Bill No. 950, as amended and principally authored by Senator Roco, is now formulated to address these vital requirements in the hope that a processual change may be provoked in our social attitudes and cultural beliefs.

In completing this Committee Report, Senate Bill No. 950 of Senator Raul Roco, as I have mentioned, was considered in relation to my own Senate Bill No. 558. This report also introduced as amendments certain features of Senate Bill No. 1436 of Senator Miriam Defensor-Santiago. But we also chose, during the Committee hearings, to consult the women themselves who provided us with their own perspective of what a rape law should be. The women spoke on their ideals of a law that would reflect their collective experience and sufferings and be responsive and sensitive to the situation of victims and survivors of rape.

I am aware that there are major points of disagreement that would result from the amended text of Senate Bill No. 950. The only palpable aspect of consensus is that rape should be reclassified as a crime against persons. As to how that reclassification should work raises certain contentious issues. Among these are:

1. the expanded definition of rape;
2. the addition of abuse of authority or relationship as a circumstance by which rape is committed and its concurrent effects on other provisions of the Revised Penal Code;



3. its woman-focused formulation versus that of a gender-neutral expression so that under the proposal, only a woman can become a victim of rape, and a man the perennial perpetrator; and

4. the marital rape provision.

These, it will be understandable, are the most disputable issues and I know that they shall spark debate among us in this Chamber. When the proper opportunity comes, we shall be open to recommendations and suggestions on how to improve upon the bill we are now reporting out.

One of the most significant aspects of this proposed rape bill dwells on the reclassification of the crime. As the law now stands, rape belongs to those cluster of offenses ranked as crimes against chastity. That archaic framework, adopted from the colonial Spanish Penal Code and which persists up to today, reinforces the gender stereotypes which discriminate against women.

As a crime against chastity, it is implied that only pure, nubile and virginal women stand a chance at being credible rape victims. It perpetuates the belief that a woman's chastity is her greatest value, an asset that must be reserved and maintained as a supreme gift brought to her husband in marriage. The consequence of that cultural notion works as the strongest impediment to rape prosecution.

Nowhere in the black letter of law may be found the requirement of chastity. Yet, our own socialization as regards the role of women and men pervades the mindset of society so that a woman who cries rape risks exposing herself to public ridicule and apathy, and even antipathy.

How do we shift the focus from the rape victim to its perpetrator? Senate Bill No. 950, as amended, corrects that false notion by reclassifying rape as a crime against persons. Rape violates a woman's core, breaks her spirit and diminishes her sense of self.

The consequences of the reclassification of rape as a crime against persons are manifold.

Thus, this bill contains an expanded definition of rape. The ways by which rape is committed has been widened to include not just penile penetration of the genitals of a woman, but also the introduction of any object, instrument or other part of the body into her anal or oral orifices. Forcing a woman into a sexual act with an animal shall likewise be penalized as rape. By so doing, we veer away from the phallogocentric view

existent in our law, that the violation of a woman can only happen through penile penetration of her genitalia. That concept fails to take into consideration other ways equally reprehensible by which a woman suffers violation upon her very person.

The inclusion of other reforms of rape retains the woman-focused formulation of Senate Bill No. 950. Historically, women have suffered from rape and other forms of sexual abuses. By reclassifying rape as a crime against persons, we effectively remove the biases in the law that are actually prejudicial to women. This we believe is only consistent with the guiding framework that rape is a crime against a woman's personhood.

To the three (3) circumstances embodied in Article 335 of the Revised Penal Code, we added another means through which rape is accomplished -- abuse of authority or relationship. The chief intention in this attempt is to fill a glaring gap in our present law and quell the occurrence of incest, acquaintance rape and custodial rape.

When sexual assault of a women is inflicted by someone who exercises moral influence upon her, the circumstances of force, threat or intimidation may be absent.

In relationships where trust and confidence or power is involved, such as that between a parent and a child, a priest and a penitent, a doctor and a patient, a teacher and a student -- an overt act of violence may be unnecessary to accomplish the rape. Yet, our law requires that she put up a determined resistance in every case.

The natural effect of such amendment is the repeal of Article 337 of the Revised Penal Code on qualified seduction which also restricts prosecution only to those cases where the woman is a relative minor and a virgin. The element of virginity in qualified seduction is anathema then to the concept of rape as a crime, not against a woman's chastity but against her very person.

The bill also states that a complaint for rape may be filed by:

1. the offended party herself;
2. her parents and legal guardian;
3. her grandparents and collateral relatives;
4. the officer or social worker of the Department of Social Welfare and Development, or of a duly-licensed child-caring institution,

orphanage, home for the aged, mental hospital or other similar institutions which maintain care and custody of the victims; or

5. a concerned, responsible resident of the barangay where the crime was committed.

This expands the number of parties who may report the crime of rape.

One of the most contentious provisions of the proposed bill dwells on marital rape. It is not clear from the present wording of Article 335 of the Revised Penal Code whether spousal rape is sanctioned. The controversy arises from our mistaken belief that a woman surrenders her rights over her body to her husband upon entering the matrimonial bond. But a woman does not alienate her inherent right to her body and to her identity because of marriage.

A woman's fundamental freedom from violence cannot be abridged by consenting to marriage. The right to consortium gained at matrimony is mutual to either spouse, and cannot be exercised against or in abuse of the other.

Rape is possible even between a husband and wife -- in fact, it happens rampantly undetected within the confines of the home. To prohibit a wife from prosecuting her own husband for rape is to accuse the State, which recognizes marriage as an inviolable social institution, of allowing and shielding the violence against a particularly aggrieved wife. That the parties are married to each other should not allow the man to parade scot-free and proud after committing rape, with his own wife as victim for a trophy.

From that context, we propose in this bill before us to penalize marital rape under certain conditions.

We also have attempted with this bill to abolish the standard barriers to a rape prosecution. Many women prefer to cower in silence and suffer the effects of rape rather than face the prospect of standing in trial and feel like an accused and not as a victim before a judicial system indifferent to her experience.

Thus, as part of the bill's provision on evidence, a victim's sexual history, or nature of work or amorous relations with the offender shall be discarded at any stage of the prosecution and trial. Through entirely irrelevant in rape cases, these three factors are a constant ploy to discredit a woman victim of rape, as if a sexually active or a prostituted woman deserves no right to complain against rape.

For the rape victim's prosecution, the right to a closed-door hearing is guaranteed at her option. And to guard against invasion of a victim's privacy, the non-disclosure of her identity to the media is likewise provided.

The terrors of rape are unimaginable for its victims. The responses we take must at least address the immediate needs of rape survivors. The Rape Crisis Centers proposed in Senate Bill No. 950, as amended, would tap the various available resources and expertise, both governmental and non-governmental.

The need to improve upon the present definition of rape was brought upon the increasing incidence of sexual violence against Filipino women. In the Philippine National Police Crime Index report for 1995, rape accounted for at least 7% of all reported crimes. For the first quarter of this year alone, there were 609 reported rape cases. The numbers naturally can't accurately show how many women are actually raped in the country. Many cases still remain unreported, with the victims enduring their individual horrors alone.

I wish to inform the Body that I came from Davao City three (3) weeks ago where a rape case between two notable local personalities is currently brewing. It was there that I learned firsthand from the members of the Justice For Karen Movement the trials women like Karen Vertido must face once she opts to come out in the open as a rape victim. The odds she must contend with by seeking legal protection and punishment for the offender are arduous. But the bigger and more acrimonious trial is being conducted, not in the courtroom, but right there in her own community of Davao, now sharply divided between condemning the rape and the rapist and blaming and bashing the victim for "asking for it," so to speak.

But no woman deserves to be raped. No woman asks to be raped. Freedom from violence cuts through as every person's birthright.

I therefore call upon my colleagues in this august Chamber to join me and my other cosponsors in supporting this bill. It has seen its way through three sessions of Congress. It was considered too radical then at the Eighth Congress. Now it may be too late to save with the law all the women victims of rape and violence while we debated on its provisions. The imperative for a new rape law has been staring us in the face since the Eighth Congress. As Chairperson of the Committee on Women and Family Relations and a lifetime feminist, I would indeed be terribly disappointed if Congress cannot pass a new rape law before 1998 when my term ends.

I would like to thank the cooperation and support of the cosponsors of this bill, Senators Roco and Defensor-Santiago.

I am sure I am not just speaking for myself but for countless Filipino women who have pinned their hopes on us. I hope with all my heart that in this Tenth Congress, we shall not fail all the women and men who look to us for solutions to rape and violence.

COSPONSORSHIP SPEECH OF SENATOR DEFENSOR-SANTIAGO

In cosponsoring the bill, Senator Defensor-Santiago delivered the following speech:

Your Committee on Constitutional Amendments, Revision of Codes and Laws, together with the Committee on Women and Family Relations chaired by Senator Shahani, and the Committee on Justice and Human Rights chaired by Senator Roco, is pleased to sponsor jointly the Committee Report on Senate Bill No. 950, known by the short title of the Anti-Rape Law. The present bill is a consolidation of the separate versions filed by Senators Shahani, Roco, and myself.

Rape, like domestic violence, is the direct result of male aggression. Any solution to the brutal reality of rape must begin with an analysis of how society deals with aggression. Our society is structured to safeguard its members from the aggression of criminals. But if a woman is raped by her boyfriend or by a relative such as her stepfather, the rapist will most probably get away with his crime. I am arguing by analogy with the United States, where most rapes - that is to say, between 60 and 85 percent - are reportedly "acquaintance" rapes.

In my five years' experience as a Regional Trial Court judge, I reached the conclusion that Filipino society is ambivalent in its worldview of the raped person. When the victim is a woman, our society has a tendency in effect to blame the victim. This attitude is a legacy of sexism, which is now prohibited by our Constitution. Society should not collude with the perpetrator, for it thus "enables" women to be victimized. We should not allow the private domain of relationship to become an easy, available target for the killer instinct that the aggressive individual is unwilling to subdue. Blaming the rape victim is sexist and unjust, because this attitude violates both human rights and the basic social contract.

Our times have rightly been described as a scenario of an epidemic of violence against women. In 1992, the U.S. Crime Victims Research and Treatment Center reported that at least one woman is raped every minute in the United States. And, according to the U.S. Justice Department, this statistics should be adjusted for the estimate that only 14 percent of rapes are reported to the police.

The Philippines has no such comparative study on rape. But the Department of Social Welfare and Development notes that from January to March this year, or a three-month period, 104 rape cases were reported; while for the year 1995, a total of 435 rape cases were reported. This means that in the Philippines, more than one woman a day is raped, and this statistics must be revised upward, if we allow that only a small percentage of rape cases is actually reported to the police.

How can we solve the problem of this epidemic of rape against women? One solution is to pass a new, tougher law that will treat assaulters more severely. In the United States, only one percent of rapists is convicted. We have no equivalent statistic for our country, but a similar figure of one-percent conviction rate would be a safe guess, considering that rape is usually committed in private without eye witnesses, and requires the highest standard of proof, which is proof beyond reasonable doubt.

Accordingly, this bill proposes the following major changes in the law:

1. Reclassifying the crime of rape, which at present is a crime against chastity, to a crime against persons. This means that rape is no longer a private crime, but is now a public crime which can be prosecuted by the state independently of the will or the consent of the offended party;
2. Expanding the definition of rape, which I shall propose to qualify with the clause: "with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person;"
3. Criminalizing date rape and marital rape;
4. Changing the evidentiary requirements for rape;
5. Increasing the penalty in all cases to reclusion perpetua to death, by removing the seven restrictive circumstances enumerated by the Death Penalty Law (R.A. No. 7659);

6. Making rape a hate crime that would permit the offended party to sue for damages; and

7. Setting up a Rape Crisis Center in every city and municipality.

During the public hearings on this bill, a number of objections were raised, and they are well taken. One of them is constitutionality, on the ground that the provision for a public trial in the Constitution, Article III, Sec. 14, paragraph (2) prevents the victim from claiming a right to a closed-door hearing. Another objection correctly pointed out the danger of making the definition of rape so all-encompassing that it might expose the law to ridicule, by qualifying harmless acts as rape.

To obviate all of these objections, I have to make the reservation that I shall propose a number of changes in the bill during the period of amendment. The purpose of the proposed bill, it should be emphasized, is not to favor one sex over the other, but to deter crime, and to achieve justice for those victimized by malicious predators.

The matrix that energizes this bill is the breakthrough of power occurring in women's struggle to reject the sexism of inherited constructions of female identity and to provide new legal constructs that affirm their own worth.

I beg the indulgence of my colleagues in closing with this passage from an ancient Latin text:

Iron is strong, but fire tempers it.
Fire is awesome, but water extinguishes it.
Water is forceful, but the sun dries it.
The sun is mighty, but a storm cloud
conceals it.
A storm cloud is explosive, but the earth
subdues it.
The earth is majestic, but men master it.
Men are powerful, but grief overtakes them.
Grief is heavy, but wine assuages it.
Wine is powerful, but sleep renders it
weak.
Yet woman is strongest of all.

COSPONSORSHIP SPEECH OF SENATOR ROCO

Senator Roco likewise cosponsored the bill and delivered the following statement:

Article II, Section 14 of the 1987 Constitution declares that the State recognizes the role of women in nation-building and shall ensure the fundamental equality before the law of women and men. Yet, certain provisions of the law preserve inequality between men and women. Such fundamental equality before the law can never be real and meaningful when the law is biased and perpetuates wittingly or unwittingly discriminatory attitudes and assumptions, which in turn are based on myths that have no factual or scientific basis.

From this perspective, social scientists have maintained that the act of rape is a way by which a man asserts his perceived superiority or mastery over a woman. Congress should read the way in correcting this long-fostered myths by reshaping the values and attitudes concerning man-woman relationships.

We have ratified the United Nations Convention on the elimination of all forms of discrimination against women. It is now incumbent upon us to honor the Philippine commitment as a party to the internationally accepted principles of international law. Such being the case, Congress must now hasten the elimination of all forms of discrimination against women. The fundamental equality before the law can be achieved only when the lawmakers and the legislature become truly sensitive to society's gender bias against women.

A universal symptom of gender discrimination and bias is in the treatment of rape victims. The fallacious concept of rape has made the crime more difficult to prove. Under existing law and jurisprudence, a rape victim is given the triple burden of proving that she is a rape victim, that she is telling the truth, and that the accused raped her not as a consequence of her provoking his sexuality. This situation breeds the inequity when the accused is justified in achieving sexual gratification, whereas the victim herself must be of a chaste character if only to give credence to her allegations.

The Philippine law on rape is an anachronism in that it fails to take into account the changing concept of rape. Worse, it perpetuates the myths already discussed. The Revised Penal Code, which is essentially Spanish in origin, classifies rape

as one of the crimes against chastity when a woman's being chaste has no significant bearing to the crime. Actually, rape is an assault on the person of a woman with the male organ as the weapon of aggression. Indeed, rape is a crime of violence that violates a woman's dignity as a person. It is the most intimate attack on the person of a woman.

Jurisprudence at present suggests that the appreciation of the degree of resistance offered by the victim is necessary to prove her lack of consent to the act of rape. A socio-legal paradox exists when the law requires a woman to be harmed or to harm her attacker, in turn, yet at the same time she is patronizingly presumed to be a victim who is willing to suffer in silence to avoid shame and scandal. Worse, social stigma attaches to the rape victim rather than to the offender.

One of the worst cases in memory is when the rape perpetrator was acquitted because the woman, in her testimony, failed to say that she crossed her legs. The court said that the most natural defense against rape that is available to the woman is that she should cross her legs. Since that particular point of testimony was forgotten, the culprit was acquitted for failure of the woman to assert that she exerted every natural defense within her power against the rapist.

Because of the misconception, even our rules on procedure presume that inasmuch as a rape victim is willing to suffer in silence, the law enforcers and the prosecuting officers can only move when the rape victim initiates the complaint. Procedural rules classify rape as a private crime in that it cannot be prosecuted de officio. Hence, incidents of rape in the country are often ignored, unacted upon, and remain unprosecuted by the very officers of government who have the primary responsibility to enforce the law and render justice.

That is why, it is not surprising that despite the two previous sponsorship speeches, there is no firm data on the number of rape victims per year. The fact is staring at us in our faces. Everyday, any paper we pick up, even the broad sheets and not just the tabloids, would have at least four or five stories on rape or sexual violations. Despite that, there are no firm data available that can be relied upon as a scientific fact on the number of rape victims in the Philippines today within one year.

Through the years, more and more rape victims have articulated their experience and frustrations in prosecuting the offender. The provisions of the

Revised Penal Code on rape have proved to be inadequate to cover the nuances and circumstances of the crime. Hence, the need for a special law on rape.

Other than the need to change attitudes and social mores regarding man-woman relations, another situation which needs to be addressed is the improvement of the relations between husband and wife. We can no longer accept the concept that the woman belongs to the man as property. In fact, in Roman Law, we were told that "being possessed" is equivalent to the words "being held by your hand." That was the description of the relationship between man and woman as husband and wife. Today, we do not think that possession of woman as property can be accepted by society.

In the past, husbands used to invoke the marital relations as a justification for abusing their spouses. And yet, in the marriage contract and in the admonition of the priest in marriages, there is no license given to the man to beat up his spouse just to have sexual gratification. Congress, therefore, should take the lead in enunciating policies that would rectify this situation.

Under the bill, the mere fact alone that the accused is the husband of the victim will not exculpate him from criminal liability if it is proved that he committed the acts defined and punished therein. We shall, therefore, release the women in the Philippines from the concept that they are still chattel or property of the husband. The marriage relationship is not transformative of the woman so that she becomes property. The marriage relationship and the matrimonial bonds is supposed to be based on equality and partnership.

Since the attitude of the law enforcer has a major effect on the prosecution of the offense, there is also need to train law enforcers and judicial officers on gender sensitivity and the legal management of rape.

The most excruciating experience we have heard from the women who have been victims of rape is when they report to the police station and the policeman who confronts them to investigate the crime is somebody who is five feet, ten inches tall, curly and looks as though he himself perpetrated the rape. The anxiety and the trauma of the woman is exacerbated under those circumstances.

The cosponsors have already mentioned the various modifications. Let me just stress one more aspect of marital rape.

The concept of marital rape herein introduced has two aspects. One is based on the proposition that being husband does not justify him for beating up his wife to have sex with his wife. The second aspect imposes standards when a husband can be convicted of rape. The first standard is when they have been legally separated for one year. We should not expect that when a man who abandons his wife for more than one year, he can, therefore, demand, as a matter of right, based on the marriage bond, that he shall have sex with his wife.

The second is something that was decided in other lands. When the husband is infected with a communicable disease, he is not entitled, as a matter of right, to have sex with his wife, so that the disease will be transmitted to the wife.

The third instance that is mentioned here is when the husband forces the wife to have sex with him under scandalous circumstances. This is based on the report and the hearings of the Committee in the Ninth Congress where the husband, after having too much drink with his "barkada" decided to call his wife so that they can show of in front of his "barkada." That, we feel, should be considered rape. And the fact that he is husband does not justify his doing so.

In view of all these reasons, we respectfully seek the support and approval of our colleagues of the proposed anti-rape act.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 950

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

SECOND ADDITIONAL REFERENCE OF BUSINESS

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

CONGRESS OF THE PHILIPPINES
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RECORDS AND ARCHIVES DIVISION

Republic of the Philippines
SENATE
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SECOND REGULAR SESSION

JOURNAL

SESSION NO. 2
Tuesday, July 23, 1996

CALL TO ORDER

At 4:22 p.m., the Senate President, Hon. Neptali A. Gonzales, called the session to order.

PRAYER

Sen. Edgardo J. Angara offered the following prayer:

Almighty God -

The way to peace and reconciliation is again the dilemma of our people. We in the Senate have the duty to help untangle this knot that has prevented the provinces in Mindanao from attaining the progress that their citizens deserve.

We pray for guidance so that we can see clearly through the doubt and foreboding that grip both Christians and Muslims.

We pray for enlightenment so that we can come to a judgment that is acceptable to all.

We pray for strength of purpose so that we can stay the course - once a decision is taken.

But above all, we pray for wisdom so that we can contribute calmly and rationally to the discussion of this ancient problem.

Grant us, O Lord, all these and shine the light of the Holy Spirit on all of us.

Amen.

COMMITTEE REPORT NO. 78
ON SENATE BILL NO. 950
(Continuation)

Upon motion of Senator Romulo, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 950 (Committee Report No. 78), entitled

AN ACT PRESCRIBING A SPECIAL LAW ON RAPE, EXPANDING THE DEFINITION OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, PROVIDING EVIDENTIARY REQUIREMENTS AND PROCEDURES FOR THE EFFECTIVE PROSECUTION OF OFFENDERS, AND INSTITUTIONALIZING MEASURES FOR THE PROTECTION AND REHABILITATION OF RAPE VICTIMS AND FOR OTHER PURPOSES

Senator Romulo stated that the parliamentary status of the bill was the period of interpellations.

Thereupon, the Chair recognized Senators Shahani and Roco, sponsors of the measure, and Senator Drilon for his interpellation.

At this juncture, Senator Shahani stated that for purposes of interpellations, the Body shall be using the June 3, 1996 version of the bill.

INTERPELLATION OF SENATOR DRILON

Asked by Senator Drilon whether actual penetration would be necessary in order to consummate rape considering that jurisprudence only requires the entrance of the male organ to the labia of the pudendum, not actual penetration, Senator Shahani pointed out that rape would be consummated at the slightest contact of the penis with the genitals, mouth or anus of a woman.

To Senator Drilon's proposal to use instead the phrase "carnal knowledge" in order to prevent any confusion that may be caused by the insertion of the words "penile penetration

of the organ in the genitalia" in the definition of the bill, Senator Shahani replied that that would be an important addition to the bill.

Senator Drilon noted that under Section 2, line 15, the wording used was "insertion of the penis into the mouth or anus of a woman" which would not include the insertion of the penis into the mouth of a man. Senator Shahani averred that the bill was specially drafted for the benefit of women considering that the main victims of rape are still women.

On page 1, line 17, Senator Drilon adverted to the provision that the crime of rape could be committed once an object or instrument is introduced into the genital or anus of a woman. He sought clarification whether physicians who would insert an instrument into the anus of a child under the supervision of a parent for medical examination would commit the crime of rape. Senator Shahani replied that under those conditions, it would not be considered rape.

Asked whether marriage would free the offender from criminal liability, Senator Shahani replied in the affirmative. However, Senator Drilon noted that the bill stipulates that accessories and accomplices would still be liable for the crime committed. He opined that it is not an accepted principle in criminal law for accomplices and accessories to be penalized while the criminal liability of the principal is extinguished.

Senator Shahani said that the provision could be refined during the period of amendments.

INTERPELLATION OF SENATOR ENRILE

Adverting to Section 2, subparagraph C, Senator Enrile sought clarification whether sexual intercourse, without any force, threat or intimidation, with a woman who is 25 years of age but who is devoid of reason would be considered rape. Senator Shahani replied in the affirmative, as she also accepted the use of the words "deprived or devoid of reason." She said that mental abnormality which could be genetic could be taken advantage of by a man.

At this juncture, Senator Roco suggested the use of the original definition of rape under the Penal Code in subparagraph (d), line 11, by inserting the words "or demented" after the words "twelve (12) years of age" to cover the imbecile or people who have no mental capacity.

On the provision "if carnal knowledge was accomplished against the will of the wife and under scandalous circumstances," Senator Enrile asked whether a husband who would have carnal knowledge with his wife against her will inside their bedroom would commit rape. Senator Shahani averred that the two elements should be present to constitute the crime of rape.

As to the level of public exposure or notoriety that should be considered scandalous circumstances, Senator Shahani replied that it would be scandalous if the privacy of the act would be violated or the intimacy of the relationship destroyed like in sexual act that is forcibly performed before other people.

At this juncture, Senator Roco suggested that the provision could end with the word "offense" on line 23 of page 1 since the meaning sought to be imparted was that one could not use being a husband as a defense against marital rape. He noted that if the conjunction "and" could be changed to OR, then the examples where marital rape could occur would just be by way of enumeration rather than by way of defining a crime.

Moreover, Senator Roco affirmed that making rape a crime against persons would be changing the parameters of the crime so, the State could be the complainant to avoid the difficulty of the rape victim being also the prosecutor and to save her from the embarrassment of repeating her experience. He explained that the proviso in line 22 of page 1 up to line 5 of page 2 should not be read outside the definition of rape as enumerated in Section 2, subsections 1 to 4.

Senator Enrile conceded that the presence of force, threat or intimidation, or if the wife is deprived of reason or made unconscious would be enough to bring out rape even if the victim is the wife. However, he pointed out that while the force or presence of a reason for denial of sexual intercourse like HIV or sexually transmissible disease would justify the wife from resisting sexual intercourse, the absence of such condition would not make the husband liable for rape. He clarified that he was raising the issues so that the Body could craft a law that would cover all possible situations.

Senator Shahani stated that the issue of marital rape is a new element and the debate had shown that the proviso could be refined.

To Senator Enrile's suggestion that the elements could be made as aggravating circumstances, Senator Roco replied that the bill sought precisely to remove the legal issue in a rape case where the wife is the complainant. He expressed openness to accept amendments at the proper time.

Relative to Section 3, Senator Enrile asked whether it would be considered rape if the male organ touches only the pubic hair of the woman. Senator Shahani said that it would, if there would be threat or force.

Senator Enrile then asked where the line would be drawn between an act of lasciviousness and rape.

In reply, Senator Shahani explained that when it comes to acts of lasciviousness, Article 56 of the Revised Penal Code would still be the appropriate and pertinent provision to be referred to as it enumerates the circumstances under which such an act is committed. She said that an act of lasciviousness or attempted rape is committed when there is no contact between the genitalia or anus of the woman with the sex organ of the man or any other object which the man may use to make contact or when the woman is forcibly made to lie with the man, undressing her, forcibly pushing her down. Otherwise, she said, as Section 2 of the bill contemplates, the slightest contact of any part of the body of the man other than the sexual organ or any object or instrument or any part of an animal used by the offender with the genital or anus of the woman would consummate the crime of rape.

At this juncture, Senator Roco explained that the bill, if enacted, would become a special law on rape. This, he said, would remove rape as a felony from the penal code and as such, the three stages of rape, like attempted, frustrated and consummated would become immaterial and the criminal intent which is required in the felony would no longer apply under the special law on rape.

However, Senator Enrile countered that with the removal of the criminal intent, even a lunatic would become liable for rape under the bill. Senator Shahani stressed that the very nature of rape makes it very difficult to prove criminal intent and consequently, very hard to prosecute. Rape, she said, has become so common a crime that it has become imperative that a special law therefor be enacted.

Noting that under the bill, rape would become a crime against a person, Senator Enrile asked the reason why the complaint should be filed by the offended party and not by the state motu proprio. In reply, Senator Shahani pointed out that Section 5 expanded the list of persons who may file the complaint but admitted that there had been an omission of the usual law enforcement officers because of the perception that there is not much concern or understanding on the part of the criminal justice system as regards rape victims especially since the latter are often too inhibited from coming out in the open to relate the details of the crime committed against them. This, she added, was the reason for the inclusion of social workers as among those who could file a complaint in order that the rape victim could be helped. Nevertheless, she noted that Section 6 provides for the duty of law enforcers in rape cases.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 950

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

PRIVILEGE SPEECH OF SENATOR MACEDA

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

OPENNESS AND HONESTY
The Counter State-of-the-Nation

President Fidel V. Ramos had reason to cheer the impressive record being posted by the economy. Going by official figures.

GNP is expected to exceed 7 percent this year; GDP may overshoot 6 percent. Our international receipts are improving, buoyed by growing exports, and the confident influx of investments.

The stockmarket continues swaying from side to side but, on average, it's been moving ever upwards. But beneath the positive figures in the market, there remains the need for greater policy refinements.

The market must attract less speculative investments in finance and real estate, and more productive ones in job creating, substantial and long-term enterprises.

Real, sustainable growth happens only when investments are raised domestically. No economy has ever expanded on a sustained basis by relying mostly on foreign investments.

For as long as our national savings rate remains at its present low level, economic growth will continue to be tenuous and vulnerable to short-term money that takes its immediate profits and runs. This economy remains vulnerable to a Dewey Dee affair.

Although our balance of trade remains in the red, it is encouraging that the bulk of imports is composed of capital goods. This signals that our economy is gearing up for further expansion in the medium term.

SECOND REGULAR SESSION

JOURNAL

SESSION NO. 3

Wednesday and Thursday, July 24-25, 1996

CALL TO ORDER

At 4:30 p.m., the Senate President Pro Tempore, Hon. Leticia R. Shahani, called the session to order.

PRAYER

Sen. Anna Dominique M. L. Coseteng offered the following prayer:

Dakilang Maykapal, sa Iyong kaluwalhatian
basbasan ang kapulungang ito
upang kami ay maging higit na karapat-dapat
sa sagradong tiwala na ipinagkaloob Mo
at ng sambayanang Pilipino.

Balutin Mo ng pag-asa ang aming puso't diwa
pag-asang magsisilbing panangga
sa bawat alinlangan at sigalot na aming
baharapin
sa pagsunod sa Iyong kalooban
na mapaglingkuran nang buong katapatan ang
Inang Bayan.

Diyos Ama, huwag pahintulutang kami ay mawalay
sa kadakilaan at kabanalang Iyong taglay
sapagkat kung wala Ka sa aming piling
wala na ring katuturan ang sangkatauhan.

Asahan Mo na kami ay magiging mapagkumbaba
at isasantabi ang pansariling interes, pananaw
at paniniwala.

Bendisyunan Mo ang sama-samang pagkilos ng
aming kapulungan
at pairalin ang kagalisayan ng aming layunin
tungo sa minimithing kapayapaan, kasaganaan at
kaunlaran.

CHANGE OF REFERRAL

Upon motion of Senator Shahani, there being no objection, the Body approved the change of referral of Senate Bill No. 1534 from the Committee on Agriculture and Food to the Committee on Environment and Natural Resources.

COMMITTEE REPORT NO. 78
ON SENATE BILL NO. 950
(Continuation)

Upon motion of Senator Romulo, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 950 (Committee Report No. 78), entitled

AN ACT PRESCRIBING A SPECIAL LAW ON RAPE, AMENDING ARTICLE 335 OF REPUBLIC ACT NO. 3815, OTHERWISE KNOWN AS THE REVISED PENAL CODE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, INSTITUTIONALIZING MEASURES FOR THE RECOVERY OF RAPE VICTIMS AND THE EFFECTIVE PROSECUTION OF OFFENDERS, AND FOR OTHER PURPOSES.

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

The Chair recognized Senators Shahani, Roco and Defensor-Santiago, sponsors of the bill, and Senator Tatad for his interpellation.

SUSPENSION OF SESSION

Upon motion of Senator Romulo, the session was suspended.

It was 4:44 p.m.

RESUMPTION OF SESSION

At 4:47 p.m., the session was resumed.

INTERPELLATION OF SENATOR TATAD

At the outset, Senator Tatad adverted to Section 2 of the June 3, 1996 version of the bill, which states:

SEC. 2. Rape is a crime committed by a man who shall have a penile penetration of the genitalia of a woman under any of the following circumstances:

- a) through force, threat or intimidation;
- b) by means of abuse of authority or relationship;
- c) when a woman is deprived of reason or is otherwise unconscious; and
- d) when a woman is below twelve (12) years of age, even though neither of the circumstances mentioned above is present.

Asked how a woman is deemed "deprived of reason," Senator Shahani replied that this happens when a woman is sick or not in control of her rational capability, such that she is not able to make judgment of what is happening around her and that she cannot make a conscious choice. She added that a woman can also be born with a congenital defect so she becomes feeble-minded, or she is at such an early age that she is not able to distinguish acts harmful to her own survival as a human being.

In reply to Senator Tatad's further inquiry, Senator Shahani averred that a person under the influence of prohibited drugs, whether such drugs are self-administered or administered by someone else, could be deemed deprived of reason since she would be incapable of resisting or fleeing from her assailant.

Adverting to letter (d) of the said section, Senator Tatad inquired as to the reason for providing that the victim who is a minor should be below twelve (12) years of age. Senator Shahani replied that that is the biological age when a child has not yet reached the period of puberty. She said that a minor over twelve (12) years of age could still be raped under the circumstances mentioned in letters (a), (b)

and (c) of the section but the intention is to protect those below twelve years of age from sexual abuse or rape.

However, Senator Tatad suggested that the age level be raised so as to protect a wider number of people. He stressed that the issue was the faculty of the person to use reason, pointing out that although a thirteen (13) year old girl may have reached the age of puberty she should not give free consent to a sexual relationship. Senator Shahani expressed openness to entertain, at the proper time, some modifications.

Considering the possibility of "cyber-sex" through technological developments in the near future, Senator Tatad asked whether the possibility of "cyber-rape" should also be recognized in the bill. In reply, Senator Shahani stated that although it might be semantically difficult to craft such a provision, she would entertain the matter at the proper time.

Noting that the bill provides that "(t)he fact alone that the offender is the lawful husband of the offended party will not negate the commission of the offense," Senator Tatad inquired into the usage of "lawful husband." Replying thereto, Senator Shahani stated that the provision refers to marital rape.

In this regard, Senator Tatad opined that marital rape is a difficult concept because in marriage -- as it is understood in Filipino culture and supported by law up to the present -- the spouses give to each other the right to each other's body, although this does not mean that a spouse may not refuse for valid reasons, such as when the wife is sick or unfit or otherwise indisposed. He said that since the

husband has the right to his wife's body, it does not constitute rape unless the conjugal act takes place under scandalous circumstances.

Reacting thereto, Senator Shahani stated that the husband's right to his wife's body is precisely what is being questioned by the issue of marital rape. She said that while women understand that in marriage they give their bodies to their husbands, it does not mean that their bodies could be abused or violated or raped. She said that a woman's body is given in love and respect so it is expected that her body is to be loved and respected in return as part of the marriage bond. She stressed that if the spirit of that bond is violated, then the wife has the right to go against the wishes of her husband done in threat or intimidation or abuse of authority or relationship. She lamented that as a worldwide phenomenon, many married women have been raped by their husbands but are inhibited because of convention. She said marital rape had to be included in the bill in response to this social problem which cannot be ignored because it affects women of all classes, elite or poor, who have been battered for not fulfilling their husbands' wishes.

Senator Tatad agreed that the obligation of spouses is, first of all, to regard marriage as a holy sacrament as the conjugal act is a sacred act and not just a vulgar expression of a biological need, and that the bodies of both spouses should be given the utmost respect. However, he was trying to distinguish between an abuse of a right and rape.

At this point, Senator Shahani informed Senator Tatad that due to the lengthy debate on the issue of marital rape in the previous day, she had decided, together with Senator Roco, to propose at the proper time the deletion of the

proviso starting with the word "if" on line 23 of page 1 of the bill up to line 5 of page 2.

On the enumeration of persons who may file a complaint of rape in Section 5 of the bill, Senator Tatad asked if Senator Shahani would be willing to separate "parents" from "legal guardian." The latter replied in the affirmative.

With regard to subsection (d) of the same section, Senator Tatad informed the Body that he has a pending bill which seeks the creation of a Tanod Bata, one of whose functions would be to file cases on behalf of minors, children and women who are victims of all types of abuses including sexual abuse. He then asked if the sponsor would be amenable to the inclusion of such an institution in that section of the bill, Senator Shahani replied that the suggestion would be a very useful contribution to the proposed measure.

On a related matter, Senator Tatad inquired whether a provision could be included in the bill which would allow the competent authorities to testify on the psychological condition of rape victims who may not exhibit the usual degree of physical trauma. In reply, Senator Shahani believed that considering that psychological trauma would be equally, if not even more, destabilizing than physical trauma, it would be very useful to consider such a suggestion.

Senator Tatad stated that at the appropriate time he would help in the formulation of the appropriate amendments.

INTERPELLATION OF SENATOR ALVAREZ

Senator Alvarez recalled the statement of Senator Roco that the proposed measure would be a special law which would remove the crime of rape from the Revised Penal Code. He

pointed out that the crime of rape under the said Code has a more defined characterization with the corresponding graduations which protects the accused rapist. He expressed the view that the proposed special law on rape would diminish the ability of a defendant to protect himself and weaken his constitutional and legal rights.

In reply, Senator Shahani reiterated that the reason why she proposed a special law was to show that rape in itself is a very serious and grave crime and that the intent of the offender should no longer be taken into consideration. However, she assured Senator Alvarez that she would be willing to entertain serious proposals for them to go back to the Revised Penal Code but she maintained that the specific sections of the bill on the assistance for the rape victims should not be amended.

Senator Alvarez clarified that while he agrees with the policy direction of the bill to give more social and legal penalties to the crime of rape, he was of the belief that the human rights of the accused should not be diminished but instead protected.

INTERPELLATION OF SENATOR SOTTO

At the onset, Senator Sotto expressed his full support for the bill and its intention to correct the discriminatory and erroneous way with which society has generally viewed the crime of rape and the way rape victims have been treated.

Asked by Senator Sotto on the meaning of the phrase "slightest contact" under paragraph 2 of Section 3 of the bill, Senator Shahani stated that it means any part of the body of a man touching, skin to skin, the genital or anus of a woman.

As to the reason why the present requirement of actual penetration of the penis into the vagina was removed, Senator Shahani said that the important factor is that the woman was forced to have contact with the man which is clearly a violation of the personhood of the woman. She explained that the proposed change was made considering the testimony of many women who have been abused and violated.

On a related matter, Senator Sotto expressed concern on the possibility of abuse and harassment under the bill. He said that a man who was tripped and who fell down on a nude woman who was sunbathing could be charged of rape if a part of his body touched the genital or anus of the woman. He said that under Section 3 of the bill, the crime is deemed consummated although there is no actual insertion or penetration. In reply, Senator Shahani believed that it was an extreme case that is not likely to happen.

At this juncture, Senator Defensor-Santiago disclosed that Senator Shahani had already expressed agreement to an amendment which redefines rape as committed by any person who shall insert any part of his body other than the sexual organ or who shall introduce any object or instrument into the genital or anus of another, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person. She pointed out that such clause was lifted from the American version of the Rape Law.

Senator Shahani assured the Body that at the appropriate time, the Committee would be willing to accept amendments that would clarify the phrase "slightest contact."

INTERPELLATION OF SENATOR FLAVIER

On the matter of marital rape, Senator Flavier expressed apprehension that the absence of any of the factors stated on page 1, Section 2, lines 23 and 24 and page 2, lines 1 to 5, would negate the intent of the bill considering that it is not always possible to have any of those.

In reply, Senator Shahani said that the Committee would be willing to improve the text of the bill at the proper time.

INTERPELLATION OF SENATOR MACAPAGAL

Asked by Senator Macapagal whether the aggravating circumstances mentioned in Section 11 of the bill are in addition to those found in the Revised Penal Code, Senator Shahani replied that Section 11 is new and is not found so far in any jurisprudence. She explained that the intent of the bill was to make a special law that would remove the crime of rape from the Revised Penal Code so it could stand as a statute by itself.

On whether she would be amenable to some amendments that would clarify that aggravating circumstances under the Revised Penal Code such as treachery, rape by two or more persons, or intoxication would also be considered as aggravating circumstances under the bill, Senator Shahani replied in the affirmative.

Adverting to Section 12 of the bill, Senator Macapagal asked how psychological damage is qualified, Senator Shahani replied that there are medical parameters of psychological damage.

Asked if psychological damage under the bill would be similar to psychological incapacity under Article 36 of the Family Code, Senator Shahani explained that the first would refer to shock, trauma and enormous stress while the latter refers to the inability of the spouses to get along with each other.

On whether knowledge by the offender of his infection with HIV or other sexually transmitted diseases would be material, Senator Shahani replied in the negative.

INTERPELLATION OF SENATOR MACEDA

Senator Maceda noted that the bill provides that the evidence on the sexual history and the nature of work of the offended party and her amorous relationship with the offender shall be disregarded. He asked whether it would interfere too much with judicial discretion in the appreciation of evidence and would unfairly load the case against the offended party. Senator Shahani replied that the provision was drafted in such a manner that there would be difficulty in defending rape cases. She added that women would be hesitant to prosecute since they would always be presumed to have instigated the rape if any of such circumstances were present. She also admitted that the bill intended to favor the rape victim in view of the fact that rape cases were unreported or underreported and that victims were vindicated only in limited cases.

Senator Maceda suggested that a more objective language be used, otherwise, such circumstances should also be disregarded in the establishment of the innocence or guilt

of the accused. The Chair affirmed that such matters might be necessary in the determination of the credibility of the complainant.

Senator Roco averred that the proposed provision could be rephrased and studied further in order to determine its impact on the rules on evidence and still maintain the objective that the victim would not be put unnecessarily under strain in a prosecution for rape.

Senator Defensor-Santiago added that it would be misleading to consider the circumstances contained in Section 9 as evidentiary requirements for conviction since they are simply prima facie evidence for filing a case. She suggested that in due time, the section be reworded and the title changed from Evidentiary Requirements to Presumptions.

Senator Maceda expressed the hope that an appropriate language would be used to conform with the basic principle that the accused is presumed innocent until proven guilty.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

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

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 950

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

SECOND REGULAR SESSION

JOURNAL

SESSION NO. 4

Monday and Tuesday, July 29-30, 1976

CALL TO ORDER

At 4:31 p.m., the Senate President, Hon. Neptali A. Gonzales, called the session to order.

PRAYER

Sen. Franklin M. Drilon offered the following prayer:

Almighty God and Father, we glorify and worship You. Your Name is holy.

Thank You so much for gifting us with renewed vigor and wisdom to faithfully discharge our duties to Your people.

Teach us to hold on to no other but You, as we soon proceed to tackle the crucial issue of peace in Mindanao.

We, Your humble children, equally share the hopes of our people and the noble intentions of the contending parties that peace should now finally descend to that strife-torn corner of our land. Too long had animosity prevented Mindanao from fulfilling its promise. The absence of peace has long prevented our brothers -- Christians, Muslims and Lumads alike -- from reaping the fruits of our national development efforts.

But even as we all desire and work for peace, grant Almighty God that we do not lose sight of our bounden duty to hammer out a peace covenant that does not offend the Constitution and the laws of the land; one that does not impinge upon the sovereignty of our nation; one that is acceptable to all affected sectors whose views we have to consider in an open and free dialogue.

Imbue us with courage and resolve as we deliberate on the formula towards a just, honorable and lasting peace. We seek Your divine hand to

explained that the Protocol would only commit the Philippines not to close down anything which have been opened up before. He affirmed that the liberalization of the retail trade, just like the liberalization of the banking industry, would be made not on the basis of any commitment but on the basis of what would be best for the country.

Moreover, Senator Maceda informed the Body that the deadline for the enforcement of the Protocol was extended from June 30, 1996 to July 31, 1996 as a courtesy to the Philippines which is now chairing the Committee on Trade in Financial Services.

SUSPENSION OF SESSION

Upon motion of Senator Romulo, the session was suspended.

It was 4:55 p.m.

RESUMPTION OF SESSION

At 5:01 p.m., the session was resumed.

SUSPENSION OF CONSIDERATION OF PROPOSED SENATE RESOLUTION NO. 475

Upon motion of Senator Romulo, there being no objection, the Body suspended consideration of the resolution.

COMMITTEE REPORT NO. 78 ON SENATE BILL NO. 950 (Continuation)

Upon motion of Senator Romulo, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 950 (Committee Report No. 78), entitled

AN ACT PRESCRIBING A SPECIAL LAW ON RAPE, AMENDING
ARTICLE 335 OF REPUBLIC ACT NO. 3815,
OTHERWISE KNOWN AS THE REVISED PENAL CODE,

RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, INSTITUTIONALIZING MEASURES FOR THE RECOVERY OF RAPE VICTIMS AND THE EFFECTIVE PROSECUTION OF OFFENDERS, AND FOR OTHER PURPOSES.

RECONSIDERATION OF THE TERMINATION OF THE PERIOD OF INTERPELLATIONS

Upon motion of Senator Romulo, there being no objection, the Body reconsidered the termination of the period of interpellations.

Thereupon, the Chair recognized Senators Shahani, Roco and Defensor-Santiago, sponsors of the bill, and Senator Herrera for his interpellation.

INTERPELLATION OF SENATOR HERRERA

Relative to Section 2, subparagraphs (3) and (4), Senator Herrera asked whether a woman could be prosecuted for rape. Senator Shahani conceded that the wording would allow the possibility of a woman being the offender. However, she pointed out that the proviso should be taken in relation to the entire bill which sought to limit the definition of rape as a crime against women. She surmised that a man who had undergone a sex transplant could be considered "she" under subparagraphs (3) and (4).

INTERPELLATION OF SENATOR REVILLA

Noting that the bill had no provision for gang rape, Senator Revilla asked whether such could be considered as an aggravating circumstance. Senator Shahani replied in the affirmative.

At this juncture, Senator Santiago explained that the terminology of penalties in the Revised Penal Code would make the provisions thereof apply to this proposed special law on rape, thus, the term "aggravating circumstances" would be used for the purpose of imposing penalties.

In addition thereto, Senator Shahani confirmed that as Article XIV of the Revised Penal Code provides, an offense shall be deemed to have been committed by a band if three armed men committed the same.

Finally, Senator Revilla stated that at the proper time, he would introduce an amendment to increase the age defining statutory rape from 12 years to 14 years because many rape victims, particularly those forced into prostitution by their parents, are of that age and above. Senator Shahani said that she would gladly accept the amendment at the proper time.

INTERPELLATION OF SENATOR ENRILE

Senator Enrile asked whether the bill would reclassify rape as a statutory crime or retain it under the crimes defined in the Revised Penal Code. Replying thereto, Senator Shahani stated that the bill would amend Article 335 of the Revised Penal Code, and at the same time expand the definition of rape, reclassifying it as a crime against persons, provide evidentiary requirements for the effective prosecution of offenders, institutionalize measures for the protection and rehabilitation of rape victims. This, she explained, would effectively retain rape under the Revised Penal Code and criminal intent should be present in its commission. Further, she affirmed that this would also

maintain the distinction between rape as a crime and an act of lasciviousness.

Senator Enrile noted that the bill's intent to reclassify rape as a crime against persons would make it a public crime, thus, the filing of a complaint against the offender would be initiated by a public prosecutor. In reply, Senator Defensor-Santiago pointed out that the intention of the drafters of the bill was to facilitate the filing of complaints by any person. However, she said that Section 5 of the bill, in enumerating the persons who may file a complaint, negated that intent because the inclusion of items in a list necessarily excludes those that are not included therein.

Senator Defensor-Santiago then suggested that Section 5 of the bill be deleted and Section 4 thereof be amended to read as follows:

Section 4. Public Crime. - the offense of rape shall hereafter be a public crime and may be prosecuted at the instance of any person.

This, she said, would effectively amend the Rules of Court, particularly Rule 110 on the prosecution of offenses.

At this point, the Chair admonished the sponsors of the bill to come to an agreement as to the real purpose of the bill, whether it would reclassify rape from a crime against chastity to a crime against persons or whether it would take out rape from the provisions of the Revised Penal Code and have its commission penalized as a statutory offense.

SUSPENSION OF SESSION

Upon motion of Senator Shahani, the session was suspended.

It was 5:22 p.m.

RESUMPTION OF SESSION

At 5:28 p.m., the session was resumed.

Upon resumption, Senator Roco stated that the sponsors of the bill had come to an agreement that the purpose of the bill would be to amend the definition of "rape" as provided in the Revised Penal Code, retain it as a felony so that the stages in the commission of a crime -- attempted, frustrated or consummated -- would still apply.

Senator Enrile adverted to Section 10 of the bill, which states that "(a)ny other crime committed by reason of or on occasion of rape shall be considered as a separate offense and the rule on complex crimes shall not be applied." He pointed out that multiple cases would clog the dockets of the court because the more serious crime of rape would not absorb, for instance, the crime of robbery committed on occasion of rape.

SUSPENSION OF SESSION

Upon motion of Senator Roco, the session was suspended.

It was 5:32 p.m.

RESUMPTION OF SESSION

At 5:38 p.m., the session was resumed.

Upon resumption, Senator Roco disclosed that the Sponsors had agreed to delete, at the appropriate time, the second and third paragraphs of Section 10 in order that the rules on complex crimes could still come into play.

With regard to Section 9 entitled "Evidentiary requirements", Senator Enrile noted that "(v)erbal objection or physical resistance in any degree of the offended party against any act of rape, or the existence of a situation which renders the offended party incapable of exercising her free will, shall be prima facie evidence of lack of consent." However, Senator Enrile pointed out that the establishment of such a prima facie case would not overturn the constitutional guarantee of presumption of innocence until guilt is established beyond reasonable doubt.

Agreeing thereto, Senator Shahani stated that at the appropriate time, the title of Section 10 would be changed from "Evidentiary Requirements" to "Presumptions."

On whether evidence of sexual history, nature of work such as prostitution, or amorous relationship, would be regarded as inadmissible to establish consent, Senator Shahani stated that it had earlier been decided to delete the said paragraph, on the principle that guilt must be established first.

INTERPELLATION OF SENATOR MERCADO

At the outset, Senator Mercado recalled that Senator Shahani had said that the thrust of the measure was to redefine rape as a crime against persons and an act of violence committed by men. He also recalled that the sponsor said that she would, on a more holistic manner, look

into the wording of Section 2 because in spite of indications that rape can only be committed by men, the acts constituting rape which are described therein could also be done by women.

In relation thereto, Senator Mercado cited a case in California wherein a teen-ager was gang-raped by female teen-agers with the use of a mop-handle. In this regard, he suggested that the words "a man" in Section 2 be changed to ANY PERSON.

SUSPENSION OF SESSION

Upon motion of Senator Romulo, the session was suspended.

It was 5:46 p.m.

RESUMPTION OF SESSION

At 5:50 p.m., the session was resumed.

Upon resumption, Senator Shahani agreed with the point raised by Senator Mercado that the crime of rape can be committed by any person so the words "by a man" in paragraphs 3 and 4 of Section 2 should be substituted with the words "By any person." However, she warned that making the bill gender-free would bring about issues such as homosexuality which could complicate the discussion.

With regard to item d) of Section 2, Senator Mercado noted that the provision would only penalize the male offender and not the parents or guardians who would allow their children below 12 years old to have sex with any person for a fee. In reply, Senator Shahani reasoned that the bill covers only the act of rape itself and it would be difficult

to include persons other than the offender. She pointed out that the concern raised by Senator Mercado can be covered by Republic Act No. 7610 on sexual abuse and exploitation.

On the right of the victim to a closed-door hearing under Section 8, Senator Mercado asked who would be penalized and what the penalty would be if this particular provision would be violated. Senator Shahani replied that Section 8 could include details to the effect that appropriate charges can be filed against the police, fiscals and all those concerned with the justice system who would violate the right of the victim to a closed-door hearing.

On whether the right to a closed-door hearing would also include the right of the victim and her family to refuse media coverage and publications, Senator Shahani replied that item 3) of Section 12 on damages would cover the concern raised by Senator Mercado.

SUSPENSION OF SESSION

Upon motion of Senator Shahani, the session was suspended.

It was 5:58 p.m.

RESUMPTION OF SESSION

At 6:00 p.m., the session was resumed.

On the right of the victim to a closed-door hearing, Senator Defensor-Santiago stated that in order to avoid any constitutional problems later on, she and Senator Shahani had agreed that the said provision would be amended to the effect that the power to grant such right would reside in the

judge and the complainant would simply have the privilege to file a motion for a closed-door hearing.

On another matter, Senator Mercado expressed the view that it would be a better approach to presume that all those who have been victims of rape would suffer from psychological damage. But Senator Shahani believed that there are degrees of psychological damage that may be inflicted on the victim as a result of rape but the bill refers only to severe psychological damage. She added that it would be very difficult to put a time limit within which the damage must have occurred because it would depend on the capability of the victim. She requested that the Committee be given time to provide for a more precise definition of "psychological damage."

On item 4) under Section 12, Senator Mercado opined that the said provision would refer to diseases like gonorrhoea, syphilis and other sexually-transmitted diseases which can easily be cured by antibiotics but not to fatal diseases like AIDS whose virus (HIV) with a maximum incubation period of ten years could only be detected by blood examination. He reasoned that a rape victim infected with HIV would surely incur large medical expenses without hope of recovery. He believed that the said provision should not only speak of immediate hospital or medical expenses but unforeseen events or consequences which may occur even after ten years.

SUSPENSION OF SESSION

Upon motion of Senator Romulo, the session was suspended.

It was 6:10 p.m.

RESUMPTION OF SESSION

At 6:11 p.m., the session was resumed.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 950

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

SUSPENSION OF SESSION

Upon motion of Senator Romulo, the session was suspended.

It was 6:11 p.m.

RESUMPTION OF SESSION

At 6:17 p.m., the session was resumed.

COMMITTEE REPORT NO. 146 ON
PROPOSED SENATE RESOLUTION NO. 475
(Continuation)

Upon motion of Senator Romulo, there being no objection, the Body resumed consideration, on Second Reading, of Proposed Senate Resolution No. 475 (Committee Report No. 146), entitled

RESOLUTION CONCURRING IN THE RATIFICATION OF THE
SECOND PROTOCOL TO THE GENERAL AGREEMENT ON
TRADE IN SERVICES.

Republic of the Philippines
SENATE
Manila

SECOND REGULAR SESSION

JOURNAL

SESSION NO. 5
Wednesday and Monday
July 31 and August 5, 1976

CALL TO ORDER

At 4:30 p.m., Wednesday, July 31, the Senate President,
Hon. Neptali A. Gonzales, called the session to order.

PRAYER

Sen. Juan Fonce Enrile offered the following prayer:

Almighty Father, in our limited understanding,
life is foolishness. We brace ourselves each day
for the rain that falls on our heads, for the work
that is laid on our tables, for the atrocities that
we read in the newspapers, for the visitors that
wait in our offices, for the beggars that knock on
our car windows, for all the nameless faces that
fill the seemingly meaningless seconds in between
floors, in between doors and in between breaths.

In our limited understanding, we fail to see
that outside, the sun is breaking through the
clouds. And in our homes, our children smile.

In our limited understanding, we fail to see
Your love, for, to us, Your love seems foolishness.
In spite of it all, Almighty Father, make us grow
in strength and fortitude to carry on our daily
cross; fill our hearts with courage and faith to
believe in You, so that at the end of our journey
in this material world, the gate of Your kingdom
will be opened to us as a final resting place.

This we ask in the Name of Your Almighty Son,
Jesus Christ.

Amen.

whether the corresponding SARO amounts have been reached. It stated that after obtaining all these documents, an executive session would be held in order to consider the policy issues with respect to these initiatives and allotments.

Relative thereto, Senator Maceda clarified that on all of these releases, a corresponding reserve requirement had been imposed by the DBM: 30 percent on the Poverty Alleviation Fund, 15 percent on schoolbuilding funds and 10 percent on CDFs and public works funds. He stressed that what was actually released was less than what was allocated.

REFERRAL OF THE QUESTION OF PRIVILEGE
OF SENATOR MACEDA

Upon motion of Senator Romulo, there being no objection, the question of privilege of Senator Maceda and the interpellations thereon were referred by the Chair to the Committee on Finance.

COMMITTEE REPORT NO. 78
ON SENATE BILL NO. 950
(Continuation)

Upon motion of Senator Romulo, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 950 (Committee Report No. 78), entitled

AN ACT PRESCRIBING A SPECIAL LAW ON RAPE, AMENDING
ARTICLE 335 OF REPUBLIC ACT NO. 3815,
OTHERWISE KNOWN AS THE REVISED PENAL CODE,
RECLASSIFYING THE SAME AS A CRIME AGAINST
PERSONS, INSTITUTIONALIZING MEASURES FOR THE
RECOVERY OF RAPE VICTIMS AND THE EFFECTIVE
PROSECUTION OF OFFENDERS, AND FOR OTHER
PURPOSES.

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

Thereupon, the Chair recognized Senator Shahani, Sponsor of the bill, and Senator Coseteng for her interpellation.

SUSPENSION OF SESSION

Upon motion of Senator Romulo, the session was suspended.

It was 6:05 p.m.

RESUMPTION OF SESSION

At 6:07 p.m., the session was resumed.

INTERPELLATION OF SENATOR COSETENG

Preliminarily, Senator Shahani explained that the July 31, 1996 version of the bill was prepared to reflect in advance the Committee amendments yet to be proposed. In view thereof, she suggested that for continuity's sake, the Body should continue using the June 3, 1996 version of the bill during the period of interpellations.

Adverting to page 1 of the bill, Senator Coseteng suggested that the terms "woman" and "man" be replaced, respectively, with the more specific terms OFFENDED PARTY and OFFENDER.

Senator Shahani stated that she would be willing to accept the proposed amendment. She warned however that a gender-free bill could give rise to many complications.

As to replacing the word "genital" on line 18 of page 1 with the word "genitalia," Senator Shahani stated that she would look for the appropriate scientific term.

On the proposal to delete the enumeration in Section 5 and substitute the same with the sentence "A complaint may be filed by any person," Senator Shahani stated that the enumeration was included to respect the privacy of the victim and keep the relationship of the complainant within the circle of people who has concern for the victim.

Explaining the rationale of her proposal, Senator Coseteng said that the victim might not be willing to disclose the crime to a relative or any government official unknown to her but would rather disclose it to a friend or a member of the religious. She added that the family might not be supportive of the victim. In reaction, Senator Shahani said that she would see how the proposed amendment would fit in the bill.

On Section 7, Senator Coseteng proposed that public officers who fail to perform their duties in relation to the filing of a rape complaint be penalized with "prision correccional" in its minimum period and suspension. Moreover, she proposed that the imposition of administrative sanction should not be a bar to criminal prosecution. In response, Senator Shahani stated that the proposed amendment would be a useful addition.

Relative to Section 8, Senator Coseteng proposed to communicate to the victim the rules on protective measures in a language or dialect known or familiar to her. In reply, Senator Shahani stated that the proposed amendment would be considered at the proper time.

On the proposal to include the family of the victim among those who would be provided counseling and other services, Senator Shahani stated that the provision should be included as a separate paragraph since the family would be receiving a different kind of counseling.

On another matter, Senator Coseteng proposed the inclusion of a fund provision for the rape crisis centers to be sourced from different government agencies. Senator Shahani clarified that the funding provision would still be

discussed with the departments concerned although Secretary Laigo of the DSWD had disclosed that ₱60 million could be appropriated for the first year of the bill's implementation. She assured Senator Coseteng that there would be a funding provision.

With respect to the lead NGO, Senator Coseteng proposed that its qualification and the process of selection be included in Section 16 so that an organization with a proven track record in caring for sexual abuse victims shall be properly chosen by the concerned departments.

In reply, Senator Shahani said that the proposal of Senator Coseteng could be included in the implementing rules and regulations.

On the matter of marital rape under Section 2, Senator Coseteng asked whether the marriage between the offender and the victim would not be a legal impediment to the filing of a complaint of rape against the offender. Senator Shahani said that she and the other sponsors of the bill have decided not to put any conditionalities on marital rape. She believed that lines 22 to 24 on page 1 were clear and comprehensive enough to cover situations and conditions in marital rape.

In response, Senator Coseteng clarified that there could be a situation where the victim would be forced to marry the rapist. She reiterated that the crime of rape should not be extinguished even in that situation. Senator Shahani suggested that Senator Coseteng help in drafting the appropriate provision.

INTERPELLATION OF SENATOR MERCADO
(Continuation)

Resuming his interpellation, Senator Mercado informed the Body that he received two letters, one from the Democratic Socialist Women of the Philippines whose concern was already covered by specific provisions in the bill and another one dated July 22, 1996 from a married rape victim Mrs. Karen Tayag Vertido who sought his help to include in the bill more protective measures for rape victims.

Senator Mercado noted that although the bill had provisions for the establishment of rape centers, it did not address the particular situation of Ms. Vertido who claimed that she was raped by a very wealthy, powerful and influential individual from Davao City. Senator Shahani pointed out that Section 14 of the bill proposed a rape crisis center that would provide rape victims with psychological counseling, medical and health services, including medico-legal examination. She noted that this provision could be improved by having a separate subparagraph on the counseling and treatment of the families of rape victims themselves. Since psychiatry in the country is not yet advanced and that there were only 250 psychiatrists to deal with trauma of rape victims, she noted the need for medical schools to train more doctors in this area which could be provided in the bill.

Asked if there was a mechanism in the bill by which deadlines could be set so that prolonged trials could be avoided, Senator Shahani replied that under present regulations, preliminary investigation by the fiscal's office should be terminated within 90 days from the date of

filing, otherwise, the officers concerned would be subject to administrative sanctions. She added that additional sanctions could be provided in Section 7.

INTERPELLATION OF SENATOR WEBB

Asked by Senator Webb whether Senate Bill No. 950 would be a special law or an amendment to the Revised Penal Code, Senator Shahani replied that in the light of the debates that had taken place in the Chamber, the sponsors had decided that the bill would just amend the provision on rape in the Revised Penal Code.

To Senator Webb's suggestion that the aggravating circumstances provided for in R.A. 7659, otherwise known as the Heinous Crimes Law, be incorporated in Section 11 of Senate Bill No. 950, Senator Shahani said that the sponsors had already decided to include such provisions in the bill.

As to the effect on the penalties provided in Section 10 of the presence of any of the aggravating circumstances enumerated in Section 11, Senator Shahani replied that the crime of rape would warrant the imposition of maximum penalty, that is death.

Supposing that the aggravating circumstances are all present in a crime but there is a mitigating circumstance, Senator Webb asked whether the maximum penalty would still be imposed. Senator Shahani replied that both mitigating and aggravating circumstances would be weighed and the penalties in the Revised Penal Code would apply.

Adverting to page 2, line 2, Senator Webb asked what the phrase "commission of the act" meant. In reply, Senator Shahani clarified that the Committee had decided to

delete the conditionalities of marital rape, thus, the end of lines 23 and 24 of page 1 and lines 1 to 5 of page 2 would be deleted during the period of amendments.

With reference to Section 9 of the bill, Senator Webb asked whether Congress has the power to prescribe evidentiary requirement, Senator Shahani replied in the affirmative, stating that the Committee, at the appropriate time, would amend said Section to read as follows:

SEC. 9. PRESUMPTIONS. ANY OVERT ACT MANIFESTING RESISTANCE AGAINST THE ACT OF RAPE IN ANY DEGREE FROM THE OFFENDED PARTY OF WHERE THE OFFENDED PARTY IS SO SITUATED AS TO RENDER HIM OR HER INCAPABLE OF GIVING VALID CONSENT SHALL BE PRIMA FACIE EVIDENCE OF THE ACTS PUNISHABLE UNDER ART. 266-A OR COMMITTED AGAINST THE WILL OF THE OFFENDED PARTY.

INTERPELLATION OF SENATOR ROMULO

Asked by Senator Romulo if there is any qualification in the case of marital rape, Senator Shahani pointed out that lines 22 to 23 on page 1 stated that "the fact alone that the offender is the lawful husband of the offended party will not negate the commission of the offense." She averred that except for force, all other conditionalities for marital rape had been removed from the bill. She also expressed the belief that the psychosocial dimensions of the bill conform with progressive jurisprudence in other countries, signifying that violence against women is now being brought out of the bedroom into the public forum. She agreed with Senator Romulo that most "battered women" are victims of rape.

In reply to Senator Romulo's final query, Senator Shahani said that force and a pattern of abuse would be the circumstances where a husband could be charged with rape.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

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

SUSPENSION OF SESSION

Upon motion of Senator Romulo, the session was suspended.

It was 7:15 p.m.

RESUMPTION OF SESSION

At 7:17 p.m., the session was resumed.

Upon resumption, Senator Romulo announced that the Body would consider the committee amendments on Monday's session.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 950

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

ANNOUNCEMENT OF SENATOR ROMULO

Senator Romulo announced that following the constitution of the Committee of the Whole on the SFCPD, said Committee would start its hearings at nine o'clock in the morning of the following day in the session hall.

SUSPENSION OF SESSION

Upon motion of Senator Romulo, the session was suspended.

It was 7:18 p.m.

RESUMPTION OF SESSION

At 7:22 p.m., the session was resumed.

CP-SENATE
JOURNAL
107Republic of the Philippines
SENATE
Manila

SECOND REGULAR SESSION

JOURNALSESSION NO. 7
Tuesday, August 6, 1996

CALL TO ORDER

At 4:45 p.m., the Senate President, Hon. Neptali A. Gonzales, called the session to order.

PRAYER

Sen. Juan M. Flavier offered the following prayer:

Our Heavenly Father,

We beseech Thee in the Senate to grant us:
 Health enough to make work a pleasure;
 Wealth enough to support our needs;
 Strength enough to battle difficulties
 and overcome them;
 Grace enough to confess our sins
 and forsake them;
 Patience enough to toil until some good
 is accomplished;
 Charity enough to see some good in our
 neighbors;
 Love enough to move us to be useful
 and helpful to others;
 Faith enough to make real things of God;
 Hope enough to remove all anxious fears
 concerning the future.

Amen.

ROLL CALL

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

Alvarez, H. T.	Maceda, E. M.
Angara, E. J.	Magsaysay Jr., R. B.
Coseteng, A. D. M. L.	Mercado, O. S.
Drilon, F. M.	Ople, B. F.
Enrile, J. P.	Roco, R. S.
Fernan, M. B.	Romulo, A. G.
Flavier, J. M.	Shahani, L. R.
Gonzales, N. A.	Tatad, F. S.
Honasan, G. B.	Webb, F. N.
Macapagal, G. M.	

Proposed Senate Resolution No. 532, entitled

RESOLUTION DIRECTING THE COMMITTEE ON YOUTH AND SPORTS DEVELOPMENT TO INQUIRE, IN AID OF LEGISLATION, FROM THE PHILIPPINE SPORTS COMMISSION AND THE PHILIPPINE OLYMPIC COMMITTEE ON THE PERFORMANCE AS WELL AS THE CONDITION OF THE PHILIPPINE ATHLETIC DELEGATION DURING THEIR PARTICIPATION IN THE RECENTLY CONCLUDED CENTENNIAL OLYMPIC GAMES HELD IN ATLANTA, GEORGIA, USA, FROM JULY 19 TO AUGUST 04, 1996, AND FOR OTHER PURPOSES

Introduced by Senator Sotto III

To the Committee on Youth and Sports Development

REMARKS OF SENATOR ROMULO

Senator Romulo announced that in the day's session, the Body would resume consideration of Senate Bill No. 950 (special law on rape), for individual amendments; Senate Bill No. 1562 (liberalizing retail trade), for interpellations; and Proposed Senate Resolution No. 459 (ratification of the U.N. Convention on the use of chemical weapons).

SUSPENSION OF SESSION

Upon motion of Senator Romulo, the session was suspended.

It was 4:53 p.m.

RESUMPTION OF SESSION

At 5:03 p.m., the session was resumed.

COMMITTEE REPORT NO. 78
ON SENATE BILL NO. 950
(Continuation)

Upon motion of Senator Romulo, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 950 (Committee Report No. 78), entitled

AN ACT PRESCRIBING A SPECIAL LAW ON RAPE, AMENDING ARTICLE 335 OF REPUBLIC ACT NO. 3815, OTHERWISE KNOWN AS THE REVISED PENAL CODE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, INSTITUTIONALIZING MEASURES FOR THE RECOVERY OF RAPE VICTIMS AND THE EFFECTIVE PROSECUTION OF OFFENDERS, AND FOR OTHER PURPOSES.

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

Thereupon, the Chair recognized Senator Shahani, sponsor of the bill, and Senator Drilon for his amendments.

DRILON AMENDMENT

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

1. On page 1, line 13, delete the words "a crime;" and
2. On the same page, line 17, substitute the article "a" with the article THE.

INQUIRY OF SENATOR TATAD

Adverting to subparagraph d) on page 1 of the bill, Senator Tatad asked the reason for pegging the age at 14, which was originally 12, at which a man would be committing rape if he had carnal knowledge of a woman whose age would be 14 and under.

In reply, Senator Shahani explained that the intention was to preserve the age between childhood and puberty when the girl is still too young to decide on her physical state. But Senator Tatad said that a woman does not decide to be a rape victim. He believed that the age should be increased to protect more minors.

Senator Roco pointed out that at age 16 or older, the crime committed would be statutory rape since the circumstances cited in the provision could not happen.

ENRILE AMENDMENT

On page 1, line 19, between the words "OF" and "ABUSE," as proposed by Senator Enrile and accepted by the Sponsor, there being no objection, the Body approved the insertion of the phrase FRAUDULENT MACHINATION OR.

ROCO AMENDMENT

On page 1, line 23, as proposed by Senator Roco and accepted by the Sponsor, there being no objection, the Body approved the substitution of the word "NEITHER" with the word NONE.

TATAD AMENDMENT

On page 1, line 24, as proposed by Senator Tatad and accepted by the Sponsor, there being no objection, the Body approved the substitution of the word "IS" with the word BE.

DRILON AMENDMENT

On page 2, line 5, as proposed by Senator Drilon and accepted by the Sponsor, there being no objection, the Body approved the substitution of the phrase "HIS OR HER" with the word ONE'S.

PROPOSED AMENDMENT OF SENATOR FLAVIER

On page 2, line 7, Senator Flavier proposed the substitution of the words "A WOMAN" with the word ANOTHER. He explained that this would make the intention of the provision gender neutral.

Reacting thereto, Senator Drilon recalled that during the interpellations on the bill, Senator Shahani explained that homosexual rape would be removed from the ambit of the measure.

Senator Shahani averred that the original version of the bill did want to emphasize that rape was usually committed against women. However, she said that in the course of the floor debates, it came to light that rape could also be committed by a woman or a man against another man. On that premise, she said that the bill was made gender-free where possible. Further, she said that having accepted his earlier amendment changing the phrase "his or her" to "one's" had already made the provision gender-free and accepting Senator Flavier's amendment would make it more gender-free.

At this juncture, Senator Roco suggested reclassifying homosexual rape as sexual assault or battery with the same circumstances surrounding the commission of rape, which could be incorporated as a separate section so that the concept of rape would be confined to the crime committed against a woman.

Reacting thereto, Senator Coseteng emphasized that since the crime of rape was being reclassified as a crime against persons, homosexual rape should also be included considering that homosexuals are also persons.

SUSPENSION OF SESSION

Upon motion of Senator Romulo, the session was suspended.

It was 5:23 p.m.

RESUMPTION OF SESSION

At 5:53 p.m., the session was resumed.

Upon resumption, Senator Shahani informed the Body that the sponsors decided to limit the bill to the woman as a victim of rape. However, she said, in subparagraphs 3 and 4 on page 2, the sponsors agreed to use the word "person" to include the situation wherein a woman can be raped by another woman.

At this juncture, Senator Coseteng said that while she had wanted to see a gender-free rape bill considering the fact that there is also a rise in the number of men, especially young boys, being victimized by rape, she would agree to the sponsors' suggestion that another provision be crafted describing the crime of rape against a man.

On page 2, line 12, Senator Coseteng asked whether subsequent marriage after the crime of rape has been committed should not negate the commission of rape as an offense.

Replying thereto, Senator Shahani invited Senator Coseteng's attention to page 4, line 27 which says that the express or implied pardon granted by the offended party to the offender shall not be a legal impediment to the prosecution of the crime of rape; neither shall it extinguish the criminal action still pending nor constitute a ground for remitting the penalty already imposed.

Adverting to Article 266-F, line 27 on page 4 of the bill, Senator Drilon asked whether the husband can still be prosecuted for rape even if the rape victim and the offender subsequently entered into a voluntary marriage. In reply,

Senator Shahani clarified that the subsequent marriage shall not extinguish the criminal action.

Senator Coseteng stated that at the proper time, she would submit a semantic proposal relative to the amendment she had proposed earlier. She said that she would include in that proposal the idea that any involuntary subsequent marriage that would arise after the commission of rape shall not negate the commission of the crime of rape.

Further, Senator Coseteng stated that the list of persons who may file a complaint for rape was deleted because rape had been reclassified as a crime against persons, and there was no longer a need to indicate in the text what is accepted as a judicial practice. She affirmed that anybody could now file a complaint if rape is committed.

PROPOSED TATAD AMENDMENT

On page 2, line 14, Senator Tatad proposed the substitution of the period (.) with a comma (,) and the addition of the following:

IF CARNAL KNOWLEDGE WAS ACCOMPLISHED AGAINST THE WILL OF THE WIFE AND UNDER SCANDALOUS CIRCUMSTANCES, OR WHEN THE HUSBAND KNEW AT THE TIME OF THE COMMISSION OF THE ACT THAT HE IS AFFLICTED WITH THE HUMAN IMMUNO-DEFICIENCY VIRUS (HIV) OR ANY SEXUALLY-TRANSMITTED DISEASES, OR WHEN THE HUSBAND HAS, IN FACT, ABANDONED THE WIFE WITHOUT JUSTIFICATION FOR AT LEAST ONE YEAR OR HAS BEEN CHARGED BY HER WITH BIGAMY OR CONCUBINAGE.

Senator Tatad explained that there must be a distinction between a crime committed by a person on another without any spousal relationship from that committed by married couples. He opined that in marriage, a spouse may be abused but that abuse might not be considered rape except when such act was

committed against the will of the person and under scandalous circumstances.

At this juncture, Senator Roco said that during the debate there was an agreement to delete the conditionalities. He further stated that a marriage contract would not justify or permit a husband to use force or threat or intimidation on the wife just to have carnal knowledge of her. He explained that providing conditionalities would make the bill difficult to apply. He said that if a rape case was filed by a wife against her husband, the husband would have to find other defenses other than being the lawful husband because being legally married to the wife would not negate the commission of the offense.

But Senator Tatad maintained that not every offense committed by the legal husband against the wife on the occasion of the conjugal act would constitute rape.

Adverting to paragraph 1 c) of Article 266-A, Senator Tatad asked what would be considered an abuse of authority or relationship.

In reply, Senator Roco said that there would be abuse when a teacher or professor would have carnal knowledge of his students. In the case of unlawful fraudulent machination, Senator Roco explained that rape would be committed if the husband would pass off his twin to his wife thereby passing off his conjugal rights to someone who was not entitled to it.

As to the circumstances that would be considered by the wife as being threatened, forced or intimidated when sexual relationship would be denied to the husband, Senator Roco

adverted to the 1921 decision of the Supreme Court where saying no was considered a valid denial. He reiterated that marriage could not automatically grant the man or the woman the rights to coerce each other.

Adverting to page 2, lines 12 to 14, Senator Roco pointed out that the provision would be an exclusionary rule in terms of the defenses available to the husband and would not alter the marriage contract, the relationship or the concept of rape.

ENRILE AMENDMENT AS PROPOSED
BY SENATOR ROCCO

As proposed by Senator Roco, on behalf of Senator Enrile, and accepted by the Sponsor, there being no objection, the Body approved the following amendments:

1. On page 2, lines 2, 7 and 9, substitute the article "A" before the word "WOMAN" with the article THE; and
2. On the same page, line 12, between the words "THE" and "HUSBAND," change the word "LAWFUL" with the word LEGAL.

DRILON AMENDMENTS

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

1. On page 2, line 15, delete the phrase "The crime of," and capitalize the letter "r" in the word "rape";
2. On the same page, line 17, delete the phrase "the crime of";
3. On the same page, lines 29 and 30, delete the phrase "the crime of"; and
4. On page 2, line 41, change "spouse" to HUSBAND.

On page 3, lines 19 and 20, Senator Drilon asked how knowledge of the "mental or emotional disability" as an aggravating circumstance would differ from aggravating circumstances enumerated under existing law, Senator Shahani replied that the bill expands the meaning of "superior strength," meaning the offender has more emotional control than his victim who may be mentally or emotionally unstable. But Senator Drilon noted that while "mental disability" has a definite meaning in criminal law, "emotional disability" does not. In reaction, Senator Shahani pointed out that "emotional disorder" has a medical definition.

SUSPENSION OF SESSION

Upon motion of Senator Drilon, the session was suspended.

It was 6:34 p.m.

RESUMPTION OF SESSION

At 6:35 p.m., the session was resumed.

ROCO AMENDMENT

On page 3, as proposed by Senator Roco and accepted by the Sponsor, there being no objection, the Body approved the rephrasing of lines 19 and 20 as follows: KNOWLEDGE BY THE OFFENDER OF THE PHYSICAL OR MENTAL DISABILITY OR EMOTIONAL DISORDER OF THE OFFENDED.

SHAHANI AMENDMENT

On page 3, line 25, as proposed by Senator Shahani, there being no objection, the Body approved the deletion of the words "HIM OR."

MERCADO AMENDMENTS

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

1. On page 4, line 10, between the word "DAMAGES" and the semicolon (;), insert the clause SUFFERED BY THE OFFENDED PARTY AS A CONSEQUENCE OF UNDUE AND SENSATIONALIZED PUBLICITY; and
2. On the same page, line 13, between the word "DISEASE" and the comma (,), insert the phrase AS A RESULT OF RAPE COMMITTED.

ROCO-DRILON AMENDMENT

On page 4, Senator Roco proposed the deletion of lines 27 to 33 as it would be conceivable that after the offender and the victim voluntarily got married, the man would continue to be prosecuted.

Asked by Senator Drilon whether the deletion of lines 27 to 33 would mean that marriage would not be an implied mode of pardon, Senator Roco replied that in this particular case, it would not, as rape would already be a crime against persons. He suggested a separate provision on the extinguishment of liability in case of marriage.

Senator Drilon recalled that the original phraseology provided that subsequent marriage between the offender and the offended party shall extinguish the criminal action or penalty imposed but such extinguishment shall not apply to co-principals, accomplices and accessories. He explained that the assumption would be that the marriage was valid.

Thereupon, on page 4, as proposed by Senator Drilon, modified by Senator Roco, and accepted by the Sponsor, there being no objection, the Body approved the rewording of lines

27 to 33, subject to style, as follows: THE SUBSEQUENT MARRIAGE BETWEEN THE OFFENDER AND THE OFFENDED PARTY SHALL EXTINGUISH THE CRIMINAL ACTION OR THE PENALTY IMPOSED; PROVIDED, HOWEVER, THAT WHERE THERE ARE CO-PRINCIPALS, THE EXTINGUISHMENT OF THE CRIMINAL ACTION OR THE PENALTY SHALL NOT APPLY TO SUCH CO-PRINCIPALS, THEIR ACCOMPLICES AND ACCESSORIES; PROVIDED, FINALLY, THAT IN CASE IT IS THE LEGAL HUSBAND WHO IS ACCUSED, SUBSEQUENT FORGIVENESS BY THE WIFE SHALL ALSO EXTINGUISH THE CRIMINAL ACTION OR THE PENALTY.

PROPOSED DRILON AMENDMENT

On page 4, line 35, Senator Drilon proposed the substitution of the article "a" before the word "complaint" with the words AN ADMINISTRATIVE.

SUSPENSION OF SESSION

Upon motion of Senator Drilon, the session was suspended.

It was 6:53 p.m.

RESUMPTION OF SESSION

At 7:10 p.m., the session was resumed.

DRILON AMENDMENTS

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

1. On page 4, line 35, between the article "a" and the word "complaint," insert the word CRIMINAL, and between the words "criminal" and "for," insert the phrase BEFORE A PROSECUTOR'S OFFICE;

2. On the same page, line 39, after the semi-colon (;), add the sentence PROVIDED, THAT IN THE EVENT THE COMPLAINT IS DISMISSED AT THE CONCLUSION OF THE PRELIMINARY INVESTIGATION, THE PUBLIC OFFICER OR EMPLOYEE CONCERNED SHALL BE IMMEDIATELY REINSTATED WITHOUT LOSS OF SENIORITY RIGHTS OR OTHER BENEFITS; and
3. On page 5, delete lines 5 to 9.

Senator Drilon explained that the purpose of the last amendment was that the bill would punish the commission of rape, but it would be unfair to unjustly punish the superior officer of the respondent public official. He said that the charges against the concerned superior officer would be confined to administrative charges governed by Civil Service rules.

WEBB AMENDMENT

On page 5, line 3, between the words "complainant" and "from," as proposed by Senator Webb and accepted by the Sponsor, there being no objection, the Body approved the insertion of the words AND/OR VICTIM.

DRILON AMENDMENTS

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

1. On page 5, line 10, substitute the word "Investigating" with the word POLICE;
2. On the same page, line 11, between the words "complaint" and "for," insert the phrase BY THE POLICE; and
3. On the same page, lines 12 and 23, substitute the word "investigating" with the word POLICE.

SHAHANI AMENDMENTS

As proposed by Senator Shahani, there being no objection, the Body approved the following amendments:

1. On page 6, line 25, substitute the word "municipality" with the word PROVINCE; and
2. On page 7, line 10, between the words "counselling" and "for," insert the phrase AND MEDICAL SERVICES WHERE NECESSARY.

Regarding Section 7, Senator Shahani stated that it would merely be an authority to appropriate and not exactly providing for appropriations.

INQUIRY OF THE CHAIR

Asked by the Chair whether there was a provision in the bill that would prohibit the publication of the name and picture of the rape victim until an information is filed with the court, Senator Shahani stated that Section 6 of the bill provides that "the offended party nor the accused shall suffer from any social degradation, embarrassment, humiliation or any other emotional stress." However, she said that the prohibition refers to those involved in the investigation and prosecution of the case and not to the media.

AMENDMENT SUGGESTED BY THE CHAIR

On page 6, line 9, as suggested by the Chair and accepted by the sponsor, there being no objection, the Body approved the change of the word "investigating" to POLICE.

PROPOSED AMENDMENTS OF SENATOR MACAPAGAL

On page 3, Senator Macapagal proposed the rewording of lines 12 to 15 as follows:

IN ADDITION TO THE AGGRAVATING CIRCUMSTANCES
RECOGNIZED UNDER EXISTING LAWS, THE FOLLOWING SHALL
AGGRAVATE THE CRIME OF RAPE:.

Senator Shahani commented that the word "aggravate" was redundant. She added that the amendment to Article 266-B of

the Revised Penal Code as provided on page 2 of the bill already included the penalties under Republic Act No. 7659.

In this connection, Senator Drilon stressed that with the presence of aggravating circumstances, the next higher penalty is imposed. He asked whether the words "shall aggravate" in the proposed amendment would make the penalty higher.

Thereupon, Senator Macapagal said that she was withdrawing her proposal which she would rephrase and submit to the sponsor so that it could be included in the clean copy.

Further, on page 3, line 36, Senator Macapagal proposed the insertion of the words THE ACTUAL before the word "DAMAGES."

The Chair opined that the amendment would limit the coverage to actual damages although the intent was to cover all kinds of damages recoverable under the law, including compensatory damages, moral damages and exemplary damages.

In view of the explanation, Senator Macapagal said she would further study the matter. She then withdrew her proposal.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 950

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

The Chair stated that a clean copy of the bill would be prepared without prejudice to further amendments that would be proposed in the next day's session.

10th 19
END REGULAR SESSION

CONCEPTS OF THE PHILIPPINES
SENATE
RECORDS AND ARCHIVES DIVISION

Republic of the Philippines
SENATE
Manila

CP-SENATE
JOURNAL
08

SECOND REGULAR SESSION

JOURNAL

SESSION NO. 8
Wednesday and Monday, August 7 & 12, 1996

CALL TO ORDER

At 4:33 p.m., Wednesday, August 7, the Senate President Pro Tempore, Hon. Leticia R. Shahani, called the session to order.

PRAYER

The Senate President offered the following prayer:

Almighty God, Most Gracious Father in Heaven:

As we commence today's session, we humbly pour out the desires of our hearts to Thee, in thanksgiving and supplication.

We thank Thee for all the blessings Thou hast bestowed upon each of us--blessings that help us recognize that if we were to be true and efficient in the performance of our duties to our country and people, we need Thine divine assistance.

We beseech Thee that Thou wilt grant unto us Thine Spirit, that in us we may bear Its fruits--even those fruits that Thou hast enumerated and promised to Apostle Paul when he wrote in his letter to the Galatians:

"...The fruits of the Spirit is love, joy, peace, long-suffering, gentleness, goodness, faith, meekness, temperance."

Grant us, Oh heavenly Father, the grace of humility that we may be able to recognize that we are not infallible, that we can sometimes be wrong even in some of our deeply held views.

Give us the humility to know that we do not have a monopoly of patriotism, of wisdom and love of country, remembering at all times the teaching of our Lord Jesus 2,000 years ago, a lesson which we have never learned that he who wants to be first must be last and servant of all.

RESOLUTION

Proposed Senate Resolution No. 533, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE THAT SARAH BALABAGAN AND OTHER PERSONS SIMILARLY SITUATED SHOULD BE PROTECTED FROM UNSCRUPULOUS INDIVIDUALS BENT ON EXPLOITING THE FORMER FOR LATTER'S SELFISH ENDS

Introduced by Senator Webb

To the Committee on Labor, Employment and Human Resources Development

SUSPENSION OF SESSION

Upon motion of Senator Romulo, the session was suspended.

It was 4:42 p.m.

RESUMPTION OF SESSION

At 4:43 p.m., the session was resumed with the Senate President presiding.

COMMITTEE REPORT NO. 78
ON SENATE BILL NO. 950
(Continuation)

Upon motion of Senator Romulo, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 950 (Committee Report No. 78), entitled

AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES.

Senator Romulo stated that the parliamentary status of the bill was still the period of individual amendments.

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

CLEAN COPY OF THE BILL

Upon motion of Senator Shahani, there being no objection, the Body adopted the "7:38 p.m., 8-06-96" version of the bill as the working draft.

INQUIRY OF SENATOR MACEDA

Senator Maceda inquired why the subsequent marriage between the offender to the victim would extinguish the criminal liability, as provided for on page 4, lines 37 to 39, while the offender already married to the victim would still be subject to criminal liability, as provided for on page 2, lines 12 to 14.

At this juncture, Senator Drilon clarified that the said provision, Article 266-F, was reinstated at his suggestion to allow the extinguishment of the criminal liability in case of marriage between the offender and the offended party. On the other hand, he said, the Roco amendment on marital rape provided that forgiveness by the wife of the offender who is her legal husband would likewise extinguish the criminal liability.

However, Senator Maceda averred that these provisions were contrary to the provision that "the express or implied pardon granted by the offended party to the offender shall not be a legal impediment to the prosecution of the crime of rape."

Senator Drilon recalled that the said provision had been deleted.

Senator Roco explained that the deletion of lines 30 to 36 would restrict pardon only to very specific instances like marriage and forgiveness by the wife of her husband. He

added that any other written forgiveness would suffer the scrutiny of probative value and would not extinguish the crime.

SUSPENSION OF SESSION

Upon motion of Senator Roco, the session was suspended.

It was 4:56 p.m.

RESUMPTION OF SESSION

At 5:02 p.m., the session was resumed.

DRILON AMENDMENTS

As proposed by Senator Drilon and accepted by the Sponsor, there being no objection, the Body approved the following amendments on page 4:

1. Delete the phrase starting with the word "THE" on line 30 up to the word "THAT" on line 36;
2. Delete the phrase "ACCOMPLICES AND ACCESSORIES" on line 40; and
3. After the comma (,) following the word "CO-PRINCIPALS" on line 42, insert the phrase AND THEIR.

Senator Maceda agreed to the amendment as it would prevent other members of the victim's family, even prosecutors, from making money in instances where the victim had granted an express pardon or had refused to prosecute.

SOTTO AMENDMENT

As a consequence of the amendments of Senator Drilon on page 4, as proposed by Senator Sotto and accepted by the Sponsor, there being no objection, the Body approved the deletion of the word "FURTHER," on line 39.

MACEDA AMENDMENT

On page 2, line 12, as proposed by Senator Maceda and accepted by the Sponsor, there being no objection, the Body approved the insertion, at the beginning of the paragraph, of the phrase SUBJECT TO THE PROVISIONS OF PARAGRAPH (F) HEREOF, .

INQUIRIES OF SENATOR ENRILE

On page 1, line 22, Senator Enrile asked the precise meaning of the word "demented" as there is a difference in the meaning of "insanity" in the medical profession and in criminal law. Senator Shahani replied that the term would include mental illness and behavioral disorder.

At this juncture, at the request of Senator Enrile, Senator Flavier explained that the word "demented" is the generic term that would include all forms of mental disorder and personality defect. Medically, he said, there is a classification according to the precise ailment and the degree of mental ability.

On another matter, Senator Enrile inquired as to the meaning of the phrase "or on the occasion" on lines 24 and 27 of page 2. He asked how far in time must the commission of the homicide be in order to be considered homicide "on the occasion" of the rape. For instance, he asked whether homicide committed in the vicinity of the area where the rape took place would be linked to the crime of rape. He stressed that there must be a very precise definition of crimes.

Replying thereto, Senator Shahani stated that in the instant case, the principal crime would be rape with homicide.

Considering the ambiguities it would present, Senator Enrile asked whether the deletion of the phrase "or on the occasion" would have an effect on the intent of the bill. Senator Shahani explained that the language was lifted in toto from the Revised Penal Code.

SUSPENSION OF SESSION

Upon motion of Senator Shahani, the session was suspended.

It was 5:18 p.m.

RESUMPTION OF SESSION

At 5:23 p.m., the session was resumed.

In reply to Senator Enrile's query, Senator Shahani said that there are several Supreme Court decisions on the complex crime of rape with homicide: People of the Philippines vs. Yu, SCRA 199; People of the Philippines vs. Ramos, 92 SCRA 165; and People of the Philippines vs. Ramos, 94 SCRA 842. Moreover, she said that there is extant literature to support the use of the phrase "on the occasion of."

Adverting to lines 38 and 39 on page 2, Senator Enrile asked whether the NEI and penal institutions would be included under "authorities" that shall have custody of the offended party, Senator Shahani replied in the affirmative.

Asked how the aforesaid provision would differ from circumstance number 6 which refers to members of the Armed Forces of the Philippines, the Philippine National Police or

any law enforcement agency, Senator Roco explained that in the second circumstance, the offender may not necessarily be a police or military personnel; the offender could be a private individual but the attendant circumstance would be that the offended party is in the custody of the police or the military. On the other hand, he said that in circumstance number 6 the offended party is not in custody of any authority but is raped by a member of the AFP or the PNF.

In the case where a woman is under the custody of the NBI or any other law enforcement agency but takes a leave from such custody and is then raped, Senator Roco said that such situation would no longer be covered by the provisions of circumstance number 2 as the victim had taken herself out of the custodial authority of the agency concerned. However, he opined that if the permission granted to the victim was just a visitation and then she was raped, it would be up to the court to determine whether the custodial protection was present during the commission of the crime.

On Senator Enrile's suggestion to include mental and juvenile institutions within the ambit of circumstance number 2, Senator Roco said that he would be amenable to it.

ENRILE AMENDMENTS .

On page 2, line 39, after the word "authorities," subject to style, as proposed by Senator Enrile and accepted by the Sponsor, there being no objection, the Body approved the insertion of the phrase OR ANY LAW ENFORCEMENT OR PENAL INSTITUTION.

THAT WHERE THERE ARE CO-PRINCIPALS, ACCOMPLICES AND ACCESSORIES, THE EXTINGUISHMENT OF THE CRIMINAL ACTION OR PENALTY SHALL NOT APPLY TO SUCH CO-PRINCIPALS"

Senator Enrile explained that the forgiving act of the offended party in marrying one of the principals in the crime of rape should also extinguish the crime or penalty as regards the other co-principals.

SHAHANI AMENDMENT

On page 4, line 43, as proposed by Senator Shahani, there being no objection, the Body approved the deletion of the word "FINALLY."

PROPOSED AMENDMENT OF SENATOR COSETENG

Senator Coseteng proposed that the bill provides, subject to style, that the crime of rape shall not be extinguished by "involuntary marriage" or where the victim is forced into marrying the offender. Senator Shahani pointed out that there is no such thing as "involuntary marriage".

SUSPENSION OF SESSION

Upon motion of Senator Shahani, the session was suspended.

It was 5:53 p.m.

RESUMPTION OF SESSION

At 6:04 p.m., the session was resumed.

PROPOSED AMENDMENT OF SENATOR COSETENG

Senator Coseteng stated that based on Article 89 of the Revised Penal Code, only the following circumstances could extinguish a crime: the death of the convict, the service of

Asked by Senator Sotto whether the provision would also apply to cases where the offended party was raped by co-detainees or co-prisoners, Senator Enrile replied in the affirmative.

On page 3, lines 34 to 35, as proposed by Senator Enrile and accepted by the Sponsor, there being no objection, the Body approved the deletion of the phrase "unless the law should prevent him from so doing."

Responding to Senator Macapagal's inquiry, Senator Enrile stated that as regards a child born of a married woman who was raped by a man not her husband, there is no need to inquire into the child's paternity because it is presumed to be the offspring of the victim's husband, unless the latter is impotent.

Anent thereto, Senator Macapagal pointed out that Article 266 provides that the person guilty of rape shall acknowledge the offspring as his own. She surmised that the phrase just deleted had been placed in the bill because the rapist would then be prevented by law from claiming the child as his own because the presumption is that the child belongs to the husband of the mother.

However, Senator Shahani expressed the opinion that it would be better to leave the issue open-ended with the deletion of the phrase since it would put on the rapist the burden of proving that the child is his.

On page 4, lines 39 to 43, as proposed by Senator Enrile and accepted by the Sponsor, there being no objection, the Body approved the deletion of the proviso "PROVIDED, FURTHER,

the sentence imposed on him, amnesty, absolute pardon, prescription of the penalty, and marriage. However, since rape has been removed from the category of crimes against chastity, she said that marriage would not be a condition to extinguish the criminal liability of the rapist. Relative thereto, she asked how this situation would relate to Article 266-F of the bill.

In reply, Senator Shahani stated that voluntary marriage between the offender and the offended party shall extinguish the criminal action imposed. Considering the difference between the nature of rape and murder as a crime, she believed that the issue of forgiveness should be considered in the case of rape since it relates to the intimate physical and emotional relationship between the man and the woman. Nevertheless, she agreed to provide in the bill a provision that would give the woman an opportunity to protect her rights if indeed the marriage was a forced one.

Thereupon, on page 4, line 37, Senator Cosefeng proposed the insertion of the word VALID between the words "subsequent" and "marriage."

At this juncture, Senator Enrile raised a situation wherein A was raped by B who later on married A; but after the marriage, B sought the annulment of such marriage with A. Senator Enrile asked whether the annulment, which makes the marriage null and void from the very beginning, would be considered immaterial in the cancellation of the crime and the penalty.

SUSPENSION OF SESSION

Upon motion of Senator Mercado, the session was suspended.

It was 6:12 p.m.

RESUMPTION OF SESSION

At 6:22 p.m., the session was resumed.

COSETENG AMENDMENTS

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

1. On page 4, line 37, after the word "SUBSEQUENT," insert the word VALID; and
2. On the same page, after the period on line 47, insert the proviso, PROVIDED, FURTHER THAT THE CRIME SHALL NOT BE EXTINGUISHED OR PENALTY SHALL NOT BE ABATED IF THE MARRIAGE IS VOID AB INITIO.

PROPOSED AMENDMENT OF SENATOR COSETENG

On page 6, Senator Coseteng proposed to reword lines 17 to 26 as follows: TOWARDS THIS END, THE POLICE OFFICER, PROSECUTOR OR THE COURT TO WHOM THE COMPLAINT HAS BEEN REFERRED SHALL INFORM THE PARTIES IN A LANGUAGE OR DIALECT KNOWN OR FAMILIAR TO THEM THAT A CLOSED-DOOR INVESTIGATION, PROSECUTION OR TRIAL AND THAT THE NAME AND PERSONAL CIRCUMSTANCES OF THE OFFENDER PARTY AND/OR THE ACCUSED, OR ANY OTHER INFORMATION TENDING TO ESTABLISH THEIR IDENTITIES, AND SUCH CIRCUMSTANCES OR INFORMATION ON THE COMPLAINT SHALL NOT BE DISCLOSED TO THE PUBLIC MAY BE ORDERED.

In reaction, Senator Shahani stated that the proposed amendment would change the intent and balance of the sentence.

Senator Coseteng then suggested that her proposed amendment be inserted after the said sentence.

Senator Shahani proposed instead to insert the phrase INCLUDING INFORMATION ON THE RIGHTS OF WOMEN THROUGH THE USE OF THE APPROPRIATE DIALECT on page 7, after the word "cases" on line 26.

But Senator Coseteng noted that the provision on page 7 refers to the training of law enforcement officers, prosecutors and lawyers, and cases of rape might already be filed before such officers could be trained.

SUSPENSION OF SESSION

Upon motion of Senator Coseteng, the session was suspended.

It was 6:35 p.m.

RESUMPTION OF SESSION

At 6:36 p.m., the session was resumed.

Upon resumption, Senator Shahani said that while Senator Coseteng was still formulating her proposal the Body could consider other amendments.

FERNAN AMENDMENT

As proposed by Senator Fernan and accepted by the Sponsor, there being no objection, the Body approved the addition of the following after the last line of Section 5:

AN ACT COMMITTED IN VIOLATION OF THE PROTECTIVE MEASURES INCLUDED HEREIN SHALL BE PUNISHED BY PRISION CORRECCIONAL IN ITS MINIMUM AND MEDIUM PERIODS OR A FINE RANGING FROM TWENTY THOUSAND (P20,000.00) TO FIFTY THOUSAND (P50,000.00) PESOS OR BOTH IN ADDITION TO THE CIVIL ACTION WHICH MAY BE BROUGHT BY THE OFFENDED PARTY.

INQUIRY OF SENATOR MERCADO

Adverting to page 2, lines 23 to 26, Senator Mercado inquired as to how frustrated rape could be committed.

Senator Shahani replied that the act would be considered as frustrated rape when the offender performed all the acts of execution and the desire for contact was unmistakable but because of the physical strength of the woman, the rape was prevented.

But Senator Mercado argued that it would fall under attempted rape. He believed that rape could only be attempted or consummated.

Senator Shahani then adverted to the Supreme Court decision where a frustrated rape was committed against a 3-year old girl and there was no evidence of penetration.

However, Senator Mercado averred that such was the only existing case of frustrated rape. He said that in the provision being discussed, once the male organ touched the female organ, the act would already be considered consummated.

SUSPENSION OF SESSION

Upon motion of Senator Mercado, the session was suspended.

It was 6:45 p.m.

RESUMPTION OF SESSION

At 6:47 p.m., the session was resumed.

Upon resumption, Senator Mercado maintained that rape could only be either attempted or consummated under the measure because the mere touching of the organs would

consummate the crime. But since the provision was quoted from Article 266-B of the Revised Penal Code, he said he would desist from proposing his amendment deleting the words "or frustrated" on page 2, line 23.

COSETENG AMENDMENT

As proposed by Senator Coseteng and modified and accepted by the Sponsor, there being no objection, the Body approved the insertion of the following on Section 5 before the amendment of Senator Fernan:

THE INVESTIGATING OFFICER OR PROSECUTOR SHALL INFORM THE PARTIES THAT THE PROCEEDINGS CAN BE CONDUCTED IN A LANGUAGE OR DIALECT KNOWN OR FAMILIAR TO THEM.

DRILON AMENDMENT

As proposed by Senator Drilon and accepted by the Sponsor, there being no objection, the Body approved the deletion of the words "PHYSICAL OR" on page 2, lines 19 and 20.

Senator Drilon explained that physical disability would already be covered by Article 14 of the Revised Penal Code which speaks of abuse of superior strength.

SHAHANI AMENDMENT

As proposed by Senator Shahani, there being no objection, the Body approved the insertion of the words "HUMAN RIGHTS AND RESPONSIBILITIES" between the words "on" and "gender" on page 7, line 25.

TERMINATION OF THE PERIOD
OF INDIVIDUAL AMENDMENTS

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

APPROVAL OF SENATE BILL NO. 950
ON SECOND READING

Submitted to a vote, and there being no objection,
Senate Bill No. 950 was approved on Second Reading.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 950

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

SUSPENSION OF SESSION

Upon motion of Senator Mercado, the session was
suspended.

It was 6:54 p.m.

RESUMPTION OF SESSION

At 6:56 p.m., the session was resumed.

COMMITTEE REPORT NO. 124
ON PROPOSED SENATE RESOLUTION NO. 459

Upon motion of Senator Mercado, there being no
objection, the Body considered, on Second Reading, Proposed
Senate Resolution No. 459 (Committee Report No. 124),
entitled

RESOLUTION CONCURRING IN THE RATIFICATION OF THE UN
CONVENTION ON THE PROHIBITION FOR THE
DEVELOPMENT, PRODUCTION, STOCKPILING AND USE
OF CHEMICAL WEAPONS AND THEIR DESTRUCTION.

Pursuant to Section 66, Rule XXIII of the Rules of the
Senate, with the permission of the Body, upon motion of
Senator Mercado, only the title of the resolution was read
without prejudice to the insertion of its full text into the
Record of the Senate.

Thereupon, the Chair recognized Senator Mercado for the
sponsorship.

JOURNAL

SESSION NO. 11

Wednesday and Thursday
August 14 and 15, 1996

CALL TO ORDER

At 4:46 p.m., the Senate President, Hon. Neptali A. Gonzales, called the session to order.

PRAYER

In behalf of Sen. Gloria M. Macapagal, Senator Magsaysay offered the following prayer:

God of Love and Peace,

We thank You, God, for the patience and determination in the search for peace and unity with which the national government has related itself to Southern Philippines through the years, unrelentlessly sharing the national bounty with them and consistently pursuing programs for development for the region instead of engaging in devastating and senseless wars.

We thank You, Lord, for the initiative which our leadership has taken, thus, embarking on a peace process, where peace eluded us in the past and which seems to be almost within our reach today, finally coming up with a solution for peace through the establishment of Southern Philippines Council for Peace and Development (SPCPD).

Almighty God, we thank You for the serious concern with which this august Chamber has attached to the issue on the establishment of SPCPD, considering the vast implications on the well-being of our country and people, the Senate constituting as a Committee of the Whole has held public hearings to listen to the different views on the matter.

So we humbly ask You, dear Lord, to give us --

SUSPENSION OF SESSION

Upon motion of Senator Maceda, the session was suspended.

It was 12:06 p.m.

RESUMPTION OF SESSION

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

SUSPENSION OF CONSIDERATION OF
PROPOSED SENATE RESOLUTION NOS. 476,
477, 478, 479 AND 480

Upon motion of Senator Romulo, there being no objection, the Body suspended consideration of the resolutions.

APPROVAL OF SENATE BILL NO. 950
ON THIRD READING

Upon motion of Senator Romulo, there being no objection, the Body considered, on Third Reading, Senate Bill No. 950, printed copies of which were distributed to the Members on August 12, 1996.

Pursuant to Section 66, Rule XXIII of the Rules of the Senate, upon motion of Senator Romulo, there being no objection, the Secretary of the Senate read only the title of the bill, to wit:

AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES.

Upon motion of Senator Romulo, there being no objection, the Chair declared in order voting, on Third Reading, on Senate Bill No. 950.

The Secretary of the Senate called the roll for nominal voting.

EXPLANATIONS OF VOTES

By Senator Roco

Senator Roco stated that Senate Bill No. 950 has been the result of work that commenced in 1988. He thanked the Chamber for the support it had given to this measure.

However, he noted that there were some criticisms on certain aspects of the bill, particularly on forgiveness in the event there is marriage between the victim and the offender. He maintained that the law cannot replace on the part of the woman the duty to stand up for her rights. But he said that if pardon would not be allowed even if the offender and offended parties later married each other, Congress shall be treated to the spectacle of a married couple with pending rape charges between themselves. Additionally, he said, if forgiveness would not be allowed between the husband and wife in case of marital rape, Congress would again be treated to the spectacle of two people living together peacefully but the state intervening and insisting that there be a conviction of the legal husband.

Senator Roco believed that the anti-rape bill has gone a long way, however, there is much more to be done to make people more conscious of women's rights.

At this point, he expressed appreciation for the efforts of Senator Shahani as well as the other members who filed their own versions of the anti-rape bill.

Senator Roco said that he would still submit a written statement in amplification of his Yes vote.

By Senator Shahani

May I explain my vote on Third Reading on Senate Bill No. 950.

Victor Hugo once said, "No army in the world can stop an idea whose time has come". Truly, the idea of a new rape law for the Philippines has become an urgent imperative in the light of present-day realities confronting women.

Everyday we are assaulted by stories of rape of women here and abroad--of a pre-pubescent girl child in Laoag City whose lifeless body was abandoned by her assailant in a rice paddy; of a five-year old girl who barely described, in almost infant-like mumbles, the savagery inflicted upon her and her younger siblings by their own grandfather; of Karen Vertido of Davao City who risked being victimized several times over by a legal system insensitive to her plight and by a society that heaps blame and the stigma on the woman herself. But behind the screaming headlines are the countless other women enduring violent abuse in silence. The tragedy of it all is that the gaps in our existing law and legal system help perpetuate such violence.

Laws, of course, are not immutable. They are at bottom, reflective of the interests, perspective and foresight or lack of foresight of the people who make them. Just as the norms of society change, so too should laws change with the times.

Centuries of subjugation have relegated women all over the world to rigid cultural stereotypes that make them susceptible and vulnerable to abuse and violence. Women have struggled through time to be genuinely heard in a monotheistic and patriarchal society which have confined their roles to the kitchen and the bedroom.

Women now are redefining themselves from man's convenient companion to man's equal partner, from the family's nurturer to its pillar of strength, from the marginalized of the community to the indispensable half in nation-building. Women are asserting themselves for recognition and enforcement of their inherent and inalienable rights as human beings.

Which is precisely why we need a law to reclassify rape as a crime against persons--one that admits rape as a violence of the very person of a women, of her very dignity and liberty to

control her own body. While rape is violence inflicted upon individual women, it nevertheless inextricably constitutes an affront on the status of women in general.

We, therefore, need a law that protects women from this macabre phenomenon, one that shields them in the home and the outside world against their very husband, father or brother, or complete stranger. We need a law that smashes every myth and stigma surrounding each rape, precluding the popular tendency for bashing the victim and glorifying the criminal. We need a rape law that provides support services for the victim and her family, the better for them to cope with and survive the trauma. We need a law that will institutionalize the sensitivity and responsiveness needed of our law enforcement agencies, the prosecution service, the courts as well as the media.

Philippine law on rape has remained essentially unchanged since its adoption from the Spanish Penal Code. Its archaic framework has withstood vast permutations throughout the decades in our social structure that saw women take on a more active role in the family and in the workplace. It is that same bedrock of gender stereotype enshrined in our Revised Penal Code that has, through time, permeated the mindset of our courts, our prosecutors, our law enforcers, and our media often with tragic results. It proved detrimental to the multitude of cases of women victims of rape.

We will recall that I first filed Senate Bill No. 1338 in 1988 seeking to redefine the crime of rape. Its counterpart bill in the House of Representatives was authored by then Congressman and now a distinguished member of this Chamber Senator Roco who has been such a staunch defender of the bill.

At that time, the bill was considered too radical, but I held steadfast in the belief that the law should be used as a tool to raise the status of women and change deeply-engrained cultural attitudes inimical to the dignity of the Filipino women.

The story repeated itself during the Ninth Congress which met from 1992 to 1995. It was during this time that women nongovernmental organizations from all over the country organized themselves and rallied behind the bill. But unfortunately, the same opposition was still entrenched against the bill. All the same, I never lost faith that somehow the seeds for a review and rethinking of the issue of rape have been planted.

It has been tough and long struggle from 1988. But at this Tenth Congress, it is evident that our Chamber has opened itself to the concept of women's rights as human rights. Today, we speak as one body, as one united team on the issue.

As we vote today on Third Reading on Senate Bill No. 950, no words can accurately capture the joy and satisfaction I feel in seeing that our effort has borne fruit. My singular wish for the passage into law of this bill is almost coming into full fruition.

This morning, I should like to thank all our Colleagues in this Chamber, in particular those fine and brilliant minds in this Chamber who played such a major role during the periods of interpellation and amendments and who subsequently amended, fine-tuned and refined this present version before us.

In particular, I should also like to thank the Senate President and our Majority Leader who gave us all the time in order that we could come to this stage which we are now.

Indeed, it was an unforgettable manifestation in this Chamber of the partnership between men and women in order that we can expand and enlarge our concept of human rights.

We can, therefore, take comfort in the fact that we in the Senate shall have a legacy for all the women, not just of the Philippines but all over the world who are now carefully watching the progress of this piece of legislation.

With this, I register my resounding Yes vote on Senate Bill No. 950.

RESERVATION TO SUBMIT A WRITTEN
EXPLANATION OF VOTE

Senator Romulo voted Yes with a reservation to submit an explanation of his vote.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

Alvarez	Magsaysay
Drilon	Mercado
Enrile	Osmeña
Flavier	Roco
Gonzales	Romulo
Herrera	Shahani
Maceda	

Against

None

Abstention

None

With 13 affirmative votes, no negative vote and no abstention, the Chair declared Senate Bill No. 950 approved on Third Reading.

APPROVAL OF HOUSE BILL NO. 149
ON THIRD READING

Upon motion of Senator Romulo, there being no objection, the Body considered, on Third Reading, House Bill No. 149, printed copies of which were distributed to the Members on July 25, 1996.

Pursuant to Section 66, Rule XXIII of the Rules of the Senate, upon motion of Senator Romulo, there being no objection, the Secretary of the Senate read only the title of the bill, to wit:

AN ACT CREATING A BARANGAY NATIONAL HIGH SCHOOL IN BARANGAY ALEGRIA, MUNICIPALITY OF MURCIA, PROVINCE OF NEGROS OCCIDENTAL, TO BE KNOWN AS THE BARANGAY ALEGRIA NATIONAL HIGH SCHOOL, AND APPROPRIATING FUNDS THEREFOR.

CONGRESS OF THE PHILIPPINES
SENATE
RECORDS AND ARCHIVES DIVISION

Republic of the Philippines
SENATE
Pasay City

JOURNAL

SECOND REGULAR SESSION

JOURNAL

SESSION NO. 101
Thursday, June 5, 1997

CALL TO ORDER

At 3:19 p.m., the Senate President, Hon. Ernesto M. Maceda, called the session to order.

PRAYER

Sen. Anna Dominique M. L. Coseteng offered the following prayer:

Dakilang Diyos na makapangyarihan sa lahat, pinupuri Ka namin at niluluwalhati; pinasasalamat Ka namin sa araw na ito, lalung-lalo na sa pagkakataon Ninyong ibinigay para kami ay muling magtipun-tipon sa huling araw ng sesyon na ito.

Sinabi Ninyo na kapag may dalawa o higit pa na nagtitipun-tipon sa banal Ninyong harapan, Kayo po ang Siyang pumapagitna sa kanila. Batid namin na Kayo ang tanging dalanginan at ang kahulihulihang hukom.

Pigilin Ninyo, Dakilang Ama, at supilin ang mga mapanlupig na mga kawani ng pamahalaan. Huwag Ninyong hayaang mamayani ang mga tulad nila, sapagkat marami na ang natatakot at patuloy na nananaghoy sa bawat hampas ng kanilang mababangis na kamao.

Patawan mo ng parusa, Ama, silang nagpapahirap maging sa kapwa Filipino o dayuhan man, lalo na sa ating mga OCWs na naghahanap-buhay sa ibang bansa, nalalayo sa kanilang mga mahal sa buhay upang maghanap-buhay; mga turista, mga negosyanteng inaakit natin para pumasok ang mahalagang salapi at kapital na kailangan natin sa ating ekonomiya; mga kawaning oportunistang sa kahinaan at pangangailangan ng ibang namumuhunan; sila na ang panuntunan sa buhay ay ang magkamal ng maraming salapi; gumamit ng kanilang kapangyarihan upang pagsamantalahan ang mga walang kalaban-laban.

The Chair recognized Senator Coseteng to sponsor the report.

SPONSORSHIP REMARKS OF SENATOR COSETENG

In sponsoring the report, Senator Coseteng delivered the following remarks:

After close to a decade, it is with privilege and with honor that we are now finally enacting into law the anti-rape bill -- Senate Bill No. 950 and House Bill No. 6265.

Disagreeing provisions have already been fleshed out in several bicameral conference committee hearings and several individual caucuses of both House and Senate panels.

At the outset, I would like to express my thanks to all our colleagues who have been very supportive and also to the sponsors of the bill that will give protection to women and victims of rape. Senator Shahani who diligently and dedicatedly shepherded these bills, Senator Roco, Senator Santiago and all those who participated in the crafting of this final version ought to be commended for their patience, their dedication and their very valuable inputs.

It was not very easy to see this day when we finally present this to the Body, to our honorable colleagues on the last day of our Second Regular Session of the Tenth Congress. And I know that it is going to be given full support by our colleagues.

I appeal to our colleagues to give us the cooperation we need as we know victims continue to remain helpless while this bill had been pending all these years.

I would like to make of record this joint statement of the conference committee representing the Senate and the House of Representatives on the disagreeing provisions of Senate Bill No. 950 and House Bill No. 6265.

We submit this in explanation of the amendments agreed upon by the conferees and recommended in the accompanying conference committee report.

The conferees agreed to adopt another working draft prepared after consultation between and among the Senate and House conferees. If the Chair will note, there were several untoward incidents that happened because all the members of the bicameral conference committee had put their heart and soul into the crafting of this bill.

Section 1 of the Senate version was adopted. However, the figure 6 was changed to 7.

Section 2 of the Senate version was also adopted.

Chapter 3, Article 266(A), the new revision in the Senate version was adopted with the following amendments:

On Section 1(B), the word "woman" was deleted and in lieu thereof, the phrase "OFFENDED PARTY" was inserted.

On Section 1(C), the comma (,) after the word "machination" was deleted and in lieu thereof, the word "or" was inserted. The word "relationship" was also deleted.

Section 1(D) the word "woman" was also deleted and in lieu thereof, the phrase "OFFENDED PARTY" was inserted.

On the same Section 1(D), the House version was adopted retaining the age requirement under the Revised Penal Code.

Sections 2, 3 and 4 of Article 266(A) of the Senate version were consolidated, hence, the proviso would now read as follows:

2. By any person who under any of the circumstances mentioned in paragraph 1 hereof shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice or any instrument into the genital or anal orifice of another person.

Article 266(B) on penalties was culled from both versions, more from the House version with a few modifications -- incorporating other provisions as well as amendments discussed during the bicam last June 3, 1997.

The new section on penalties will now read as follows:

Article 266(B). Penalties. - Rape under paragraph 1 of the next preceding article shall be punished by reclusion perpetua. Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

This was in the Senate and House versions.

When the victim has become insane, the penalty shall be reclusion perpetua to death.

When the rape is attempted and a homicide is committed by reason or on the occasion thereof, the penalty shall be reclusion perpetua to death. We follow the House version.

When by reason or on the occasion of the rape, homicide is committed, the penalty shall be death. This is found in both the Senate and House versions.

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1. When the victim is under 18 years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree or common law spouse of the parent of the victim. (House version)

2. When the victim is under the custody of the police or military authorities or any law enforcement or penal institution.

3. When the rape is committed in full view of the spouse, parent or any of the children or other relatives within the third civil degree of consanguinity. This is the Senate and House version except the word "spouse" which originally was "husband."

4. When the victim is a religious engaged in legitimate religious vocation or calling, and is personally known to be such by the offender before or at the time of commission of the crime. (House version)

5. When the victim is a child below seven years old. (House version)

6. When the offender knows that he is afflicted with human immuno-deficiency virus (HIV), acquired immune-deficiency syndrome (AIDS) or any sexually-transmitted disease and the virus or disease is transmitted to the victim. (Senate and House version)

7. When committed by any member of the Armed Forces of the Philippines or paramilitary units thereof, or the Philippine National Police, or any law enforcement agency, or penal institution; when the offender took advantage of his position to facilitate the commission of the crime. (Senate and House version)

8. When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation or disability. (House version)

9. When the offender knew of the pregnancy of the offended party at the time of the commission of the crime. (Senate and House version)

10. When the offender knew of the mental disability, emotional disorder or physical handicap of the offended party at the time of the commission of the crime. (Senate and House version)

"Rape under paragraph 2 of the next preceeding article shall be punished by prision mayor." That was found in the House version. And whenever rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be prision mayor to reclusion temporal. (House version)

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be reclusion temporal.

When the rape is attempted and a homicide is committed by reason or on the occasion thereof, the penalty shall be reclusion temporal to reclusion perpetua. Reclusion temporal shall also be imposed if the rape is committed with any of the ten aggravating qualifying circumstances mentioned in this article.

Article 266(D) on Presumptions was amended, hence, it reads:

Article 266(D). Presumptions. - Any physical overt act manifesting resistance against the act of rape in any degree from

the offended party or where the offended party is so situated as to render her incapable or giving valid consent, may be accepted as evidence in the prosecution of the acts punished under Article 266(A).

Article 266(E) of the Senate version on civil liability of persons guilty of the crime of rape was deleted.

Article 266(F) of the Senate version on effect of pardon was adopted.

Section 3 of the Senate version on Suspension of Certain Public Officers and Employees was deleted.

Section 4 of the Senate version on Duty of the Police Officer was deleted.

Section 5 of the Senate version on Protective Measures was deleted.

Section 6 of the Senate version on Rape Crisis Center was deleted.

Section 7 of the Senate version on Appropriation was deleted.

The separability clause of the Senate version was adopted.

The Repealing Clause of the Senate version was adopted.

The Effectivity Clause of the Senate version was adopted.

And the title of the reconciled version shall read as follows: An Act Expanding the Definition of the Crime of Rape Reclassifying the Same as the Crime Against Person Amending For the Purpose R.A. No. 3815 as Amended, Otherwise Known as the Revised Penal Code and For Other Purposes.

I would like to put on Record that Section 3, on Suspension of Certain Public Officers and Employees, Sections 4, 5, 6 and 7 of the Senate version were deleted not because the members of the Bicameral Conference Committee were not in favor of these sections. Based on the arguments that were presented, it was agreed upon by the members of the Senate panel that a separate bill will be filed quoting word for word the provisions deleted and that they would be approved as soon as possible when we come back in July.

Both panels also felt that these are administrative measures that should not be incorporated in the bill which will amend the Revised Penal Code. These administrative matters could be tackled by two other bills that would be filed.

Both chairpersons, Congressman Edgar Lara and myself signed the report together with the other members as follows: House panel -- Representatives Baltazar Satur, Luz Bacunawa, Leonor Luciano, Bellaflor Angara-Castillo, Ronaldo Zamora, and Thelma Almario; Senate panel -- Senators Raul Roco, Miriam Defensor Santiago, Franklin Drilon, Marcelo Fernan, and Leticia Ramos Shahani.

APPROVAL OF THE CONFERENCE
COMMITTEE REPORT

Submitted to a vote, there being no objection, the Conference Committee Report on the disagreeing provisions of Senate Bill No. 950 and House Bill No. 6265 was approved by the Body.

SUSPENSION OF SESSION

Upon motion of Senator Tatad, the session was suspended.

It was 5:16 p.m.

RESUMPTION OF SESSION

At 5:26 p.m., the session was resumed.

CONFERENCE COMMITTEE REPORT
ON SENATE BILL NO. 36 AND
HOUSE BILL NO. 1934

Upon motion of Senator Tatad, there being no objection, the Body considered the Conference Committee Report on the disagreeing provisions of Senate Bill No. 36, entitled

AN ACT PROVIDING FOR THE IMMEDIATE PROCLAMATION OF AN UNOPPOSED CANDIDATE FOR A LONE ELECTIVE POSITION IN A SPECIAL ELECTION WITHOUT FURTHER GOING THROUGH THE PROCESS OF CASTING THE BALLOTS AND OTHER ELECTORAL PROCESSES RELATIVE THERETO.