

Table of Contents

PLENARY SESSIONS

Session No.		Page
42	Wednesday, Thursday, Friday, Monday & Tuesday December 6 (pm), 7 (am & pm), 8, 11 & 12, 1995	1
43	Wednesday & Friday, December 13 & 15, 1995	177
44	Monday, Tuesday, Wednesday & Thursday December 18, 19, 20 & 21, 1995	199
Necro	Tuesday, December 19, 1995	215
45	Monday, January 22, 1996	293
46	Tuesday, January 23, 1996	323
47	Wednesday & Thursday, January 24 & 25, 1996	351
48	Monday, January 29, 1996	381
49	Tuesday, January 30, 1996	399
50	Wednesday & Thursday, January 31 & February 1, 1996	421
51	Monday, February 5, 1996	463
52	Tuesday, February 6, 1996	473
53	Wednesday & Thursday, February 7 & 8, 1996	503
54	Monday, February 12, 1996	547
55	Tuesday, February 13, 1996	573
56	Wednesday & Thursday, February 14 & 15, 1996	593
57	Monday, February 19, 1996	637
58	Tuesday, February 20, 1996	657
59	Wednesday & Thursday, February 21 & 22, 1996	683
60	Monday, February 26, 1996	725
61	Tuesday, February 27, 1996	745
62	Wednesday & Thursday, February 28 & 29, 1996	763
63	Monday, March 4, 1996	793
64	Tuesday, March 5, 1996	825
65	Wednesday & Thursday, March 6 & 7, 1996	851

executive agreements, but we will look into the matter. Certainly, if the distinguished Gentleman asks me under my tenure as chairman of the Foreign Relations Committee, I am certainly not eager to go into every understanding agreement or whatever that we sign with every country. I think that it would only be the major, substantial and final agreements that we should really be concerned about.

Senator Angara. The defense cooperation as well as the undertaking to strengthen economic and cultural linkages would be two major agreements affecting our bilateral relations. I think the Committee on Foreign Relations, at the very least, ought to ask the DFA for copies of these so that the members of this Body can study and judge for themselves whether these are international agreements that ought to be ratified by the Senate, or they are executive agreements that need not be ratified by the Senate.

Senator Maceda. Certainly, Mr. President, that should be done. Again, looking at this paperwork, without necessarily saying that the titling or characterization by the Executive branch is binding on us, we are not saying that it is indeed again styled as a memorandum of understanding on cooperative defense activities.

Senator Angara. Thank you very much, Mr. President.

Senator Maceda. Thank you, Mr. President.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

Senator Romulo. Mr. President, may I ask that for the next interpellation, the Senate President Pro Tempore, Senator Shahani, be recognized.

The President. The Senate President Pro Tempore is hereby recognized.

Senator Shahani. Mr. President, I wonder if the distinguished chairperson of the Senate Committee on Foreign Relations would entertain just a few questions from this Representation.

Senator Maceda. Willingly, Mr. President, but with some apprehension because the Lady Senator from Pangasinan is the resident expert on foreign relations in this Body.

Senator Shahani. Our distinguished chairman of the Finance Committee is very modest, Mr. President. I think in this Chamber, there is no monopoly of foreign relations expertise, and he has discharged his duties exceptionally well in this area

despite his very heavy duties in the Finance Committee.

Mr. President, this is an agreement on development cooperation. But looking at the activities of this agreement, the giving party is Australia and the receiving party is the Philippines. Is this correct?

Senator Maceda. That is correct, Mr. President. As shown by Article 2, it says: (a) the sending of missions to the Philippines; (b) the granting of scholarships to nationals of the Republic of the Philippines for studies in Australia; (c) the assignment of Australian experts, et cetera, to the Philippines.

So, it is very clear that we are the receiving party, as the Lady Senator would put it.

Senator Shahani. But is the Philippines so poor? I mean, are we in the category of Rwanda and Somalia, Mr. President, that as a developing country we have nothing to offer to these so-called developed countries in an agreement like this?

Senator Maceda. I do not think we are so poor as to have nothing to offer. We certainly have expertise in so many areas. However, I guess when this Development Cooperation Agreement was negotiated, the focus really was on the needs of the Philippines. I would assume Australia was not asking for anything. I guess that was not seriously put on the table.

Senator Shahani. Mr. President, I know that time is pressing. I do not think this is the time to revise in a major way. But I would just want to express my apprehension about an agreement of this type where we are receiving something from a developed country after nearly a century of independence. I think in the future, we should avoid having this one-sided agreement where we are on the receiving end and we have really nothing to offer to the so-called rich countries.

I am saying this, Mr. President, with a sense of apprehension because we seem to be almost a beggar-nation so often. We have lost a sense of pride. I am saying this because I had the honor to serve as ambassador to Australia from 1978 to 1980, at a time when relations were not very good with Australia because they criticized the human rights policy of the late President Marcos.

At that time, the Philippines had nothing to offer. And yet, if I look at all the universities all over Australia, there was not a single course offered on Philippine history or culture. Not a single course, not one exchange professor. I tried very hard to raise money from the private sector to finance a chair on Philippine history for three years. At least, I succeeded. From 1978, 1979 to 1982, we had an exchange professor from the Philippines financed 60 percent by Philippine money and

never been elected to that position in the first place?

We are talking here of fairness. We cannot achieve peace and harmony if the rules themselves are seen to be unfair. That is the point, Mr. President.

Senator Sotto. Mr. President, I do not see any advantage, as far as the elections are concerned if there is an OIC appointed, because the OIC cannot run.

Senator Angara. Mr. President, I think one need not be a politician to understand that one who is in control of the office will have tremendous influence over the voters and even over the result of the voting.

Senator Sotto. The Gentleman from Quezon has been mentioning the word "fairness." This is the same thing that the people of Mindanao have always been crying for in the past years. They have always cried for fairness. And to them, this is fair. Shall we not give it to them? After all these years, they are the ones crying that we have never been fair to them, not even in this Hall. That is what they have been crying for all throughout these years.

Senator Angara. Mr. President, we are not relying on the vague general claims of some people in Mindanao. We are relying on the Representation made to us only last night by people who are going to be directly affected by this OIC rule.

So, we are not going to accept that general and vague assurance that the people of Mindanao would welcome this OIC situation that we are now about to pass as a matter of rule in this election.

Senator Sotto. Mr. President, this is again also a presumption as far as we are concerned, because the governor, for all we know, might not run. Therefore, he will be in a holdover capacity until September 9 or until the official shall have been duly elected and qualified.

Senator Angara. What is the point then of having this rule inserted? As I understand it from the conferees, the reason this provision was inserted is to allow for the possibility of Nur Misuari wanting to be the OIC before the election. Why then?

Senator Sotto. I am sorry, Mr. President. During the official discussion of the Bicameral Conference Committee, that was not mentioned.

Senator Angara. Yes, officially. But unofficially, everybody knows that is the reason why the House contingent is insisting on this OIC situation. I think we ought not to close our

eyes also to that reality because we are here trying to fashion a law for real people and a real situation.

SUSPENSION OF THE SESSION

May I have a one-minute recess, Mr. President, just to wait for the bill that we are looking for?

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 7:20 p.m.

RESUMPTION OF THE SESSION

At 7:52 p.m., the session was resumed.

The President. The session is resumed. Senator Angara is recognized.

Senator Angara. Mr. President, I now have a copy of Republic Act No. 7647 which postponed the ARMM election in 1993. As I was saying, the rule that we adopted in that election is the holdover rule rather than the OIC rule, just to complete the record.

Mr. President, in the Gentleman's recollection, was it the intent of the Conference Committee to exclude the possibility of the regular practice in an election wherein an incumbent seeking reelection does not lose his incumbency by the simple fact that he is running for reelection?

Senator Sotto. Mr. President, there was a lengthy discussion on this matter. The only time that we were able to arrive at a consensus was when Senator Fernan offered an amendment that will reconcile both versions.

So, if the Senate President will allow, and with the permission of the Gentleman, may I yield the Floor to Senator Fernan to give us a backgrounder on this provision, Mr. President.

The President. Yes. With the permission of the two Gentlemen on the Floor, Senator Fernan is recognized.

Senator Fernan. Thank you, Mr. President, and with the permission of the Gentleman from Aurora, Quezon.

Senator Angara. Yes, certainly, Mr. President.

Senator Fernan. To my recollection, during the bicameral conference last night to discuss the Conference Committee Report, I noticed that the House position compared to the Senate

position differed on four issues. Anyway, the three issues were resolved to the satisfaction of all parties concerned. So, we will limit ourselves to just one issue, and that is what happens to the members of the Regional Legislative Assembly, as well as the other officers—I am referring to the regional governor, the vice governor and the speaker—after March 31, 1996.

The position taken by the House was that they should *ipso facto* cease to hold office and that would give rise to the vacancies which have to be filled up. On the other hand, the version of the Senate provided for a continuance in office of the incumbents in a holdover capacity, and we were sort of stymied on this particular issue.

Later, in the course of our discussion, we came up with a proposal that the House panel accept the holdover position that we have taken. They suggested that we include a provision to read as follows: "The incumbents shall continue in a holdover capacity until their successor shall have been duly elected and qualified unless they file their certificates of candidacy."

When it reached that point, they wanted to qualify "for the same or other position". In which case, they shall *ipso facto* be considered resigned from their office.

As I recall, Mr. President, there was no agreement on the part of the Senate panel that it would be specified in the text of the bill that the position should be the same position. Instead, I made a proposal that they file their certificates of candidacy for any elective position therein. In the absence of any explicit statement and any categorical statement in the bill, it is my understanding that the elective position referred to therein is the position other than the one held by the incumbent. That is my observation, Mr. President.

Thank you.

Senator Angara. Mr. President, will the Gentleman yield for a few questions to clarify what he just said?

Senator Fernan. Yes, gladly.

Senator Angara. The distinguished Senator said that the House panel wanted to qualify the phrase, and I quote: "...unless they file their certificate of candidacy for any elective position, whether for the same or another position."

Senator Fernan. Yes, that is correct.

Senator Angara. And that the Senate panel rejected that qualification "for the same or another position" because the Senate contingent wanted the regular ordinary rule to be applied.

Senator Fernan. That is correct, Mr. President, and that is the reason why I insisted on the phraseology "for any elective position therein."

Senator Angara. And the ordinary regular rule in election is that one loses his incumbency only if he seeks another position. So that if he files a certificate of candidacy for the same position, then he continues to be an incumbent.

Senator Fernan. That is the understanding, Mr. President, because of the absence of any categorical statement in the text of the law that one is considered resigned if he runs for the same position.

Senator Angara. And the Senate contingent's position was, in effect, accepted by the Conference Committee.

Senator Fernan. Yes, because there was no insistence anymore on the part of the House panel that the phrase "different or the same position" be included in the text. But they accepted the phraseology that I proposed, to the effect "that a certificate of candidacy for any elective position therein without any specification".

Senator Angara. Thank you. Mr. President, does the chairman of the Committee accept the interpretation given to us by the distinguished Gentleman from Cebu?

Senator Sotto. Yes, Mr. President. That was the discussion.

Senator Angara. And is that interpretation not also consistent with the position taken by us here in the Senate and the position that the Gentleman has taken and committed to the Majority Leader as well as to this Representation before the Bicameral Conference Committee?

Senator Sotto. Yes. As a matter of fact, Mr. President, that was what I mentioned in my speech when I reported out the Committee Report. That was the position of the Senate.

Senator Angara. So that this interpretation is consistent with the Senate position, and one can say that the Conference Committee, meaning both Houses, have accepted this interpretation?

Senator Sotto. Yes, Mr. President. It was described accurately by Senator Fernan.

Senator Angara. Thank you, Mr. President.

The President. The Chair saw Senator Tatad trying to

claim the Floor before. Is he pursuing his intent?

Senator Tatad. Mr. President, I had wanted to ask some questions, but I believe my questions have been adequately covered. But just for emphasis, may I put one or two questions?

The President. Senator Tatad is recognized.

Senator Tatad. Under the interpretation given to us by the distinguished Gentleman from Cebu, does it mean then that if the regional governor runs for the same office, he is not *ipso facto* considered resigned from office?

SUSPENSION OF THE SESSION

Senator Sotto. Mr. President, may I ask for a one-minute suspension of the session.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 8:02 p.m.

RESUMPTION OF THE SESSION

At 8:04 p.m., the session was resumed.

The President. The session is resumed.

Senator Sotto. Mr. President, the question of the Gentleman, I understand, has been answered by Senator Fernan when he narrated what transpired during the Conference Committee.

Senator Tatad. I will accept that answer, Mr. President. Just one more small question. May the distinguished Sponsor tell us whether the Commission on Election is fully aware of the intent of the provision as interpreted by the distinguished Gentleman from Cebu?

Senator Sotto. They were present during the conference, Mr. President.

Senator Tatad. Thank you very much, Mr. President.

Senator Drilon. Mr. President.

The President. Senator Drilon is recognized.

Senator Drilon. Thank you, Mr. President. The questions we had in mind were all clarified during the interpellations made by the Gentlemen from Quezon and Catanduanes. But I want to make it of record that when the Senate bill was being presented

for Third Reading, we were in receipt of a petition from the Regional Legislative Assembly precisely on the issue of whether or not there is merit in the provision that the members of the Regional Legislative Assembly and the other officials of the ARMM should continue in a holdover capacity pending the election.

Mr. President, let me read for the record this petition of the assemblymen of the Regional Legislative Assembly dated December 1995. It reads:

Dear Senator Drilon:

In connection with the bills filed to postpone the March 4, 1996 election in the Autonomous Region in Muslim Mindanao, we, the Members of the Regional Legislative Assembly, want to put on record our comments for your consideration and appropriate action.

The March 4, 1996 election is an event very dear to our heart. It is our reelection bid that will steer our political career either to success or oblivion, and we want our people and history to judge us on that day on the basis of our performance.

Frankly, we have been preparing for that historic day, the March 4, 1996 election. However, the unfolding of this new development i.e., filing of three bills which are certified by the President as urgent, has certainly jeopardized our preparations and goal to the extent that our people may not be given the opportunity to judge us completely is unacceptable and absolutely unfair. Be that as it may, we have agreed to support the postponement of the election to give more time to the GRP-MNLF negotiation to settle the remaining issues and to afford extra time to the Comelec to put in place its computerized system of election.

As originally conceived, the bill filed in the Lower House provides for a holdover capacity to the elected incumbent officials of the ARMM when their term expires on March 31, 1996. For personal interest, some members of the Lower House are seeking to amend this particular bill by deleting the holdover provision and substituting it with "By Appointment" provision upon the expiration of the term of the incumbent elected officials on March 31, 1996. Such kind of gesture by our distinguished Members of the Lower House saddened us very much for they have chosen their personal interest to prevail over the interest of our people. The amendment will un-

RECORD OF THE SENATE

WEDNESDAY, JANUARY 24, 1996

OPENING OF THE SESSION

At 4:27 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 47th session of the Senate in the First Regular Session of the Tenth Congress of the Philippines is now called to order.

Let us stand for the opening prayer to be led by Sen. Juan Ponce Enrile.

Everybody rose for the opening prayer.

PRAYER

Senator Enrile. Let us bow our heads in the presence of our Lord:

Almighty God, as we gather here in Your presence, we offer to You the past year of our lives, humble as they are. In times of trials, You gave us the strength and the perseverance to carry on with our work, to take each day as they are given to us and to strive for the peace we so much desire. In our moments of weaknesses, You help us rise above the situation and above ourselves.

Once again, we gather in this Chamber, O Lord, as another year begins to unfold before us. And like the past year, we are hopeful that as we go about our work and our daily lives, You will help us keep in mind that in Your Eminence we remain limited and powerless; that You will give us the greatness of spirit and the steadfastness of mind to overcome our weaknesses; that You will light up our minds and open our eyes to do our best in uplifting the lives of our fellowmen; that You will bestow upon us more strength, more fortitude, and more wisdom, to turn back to Your ways, and keep to Your ways, that we may continue to serve You in Your great love and mercy.

Ever-loving God, how blessed we are to be in Your grace. Your love is as fierce as a lion, and Your kindness as soft as a lamb, that we are indeed blessed to be called Your people.

Amen.

ROLL CALL

The President. The Secretary will now call the roll.

The Secretary.

Senator Heherson T. Alvarez **

** On official mission

- Senator Edgardo J. AngaraPresent*
Senator Anna Dominique M.L. Coseteng ..Present*
Senator Franklin M. DrilonPresent
Senator Juan Ponce EnrilePresent
Senator Marcelo B. FernanPresent*
Senator Juan M. FlavierPresent
Senator Ernesto F. HerreraPresent*
Senator Gregorio B. HonasanPresent
Senator Gloria M. MacapagalPresent
Senator Ernesto M. MacedaPresent
Senator Ramon B. Magsaysay Jr.Present
Senator Orlando S. MercadoPresent
Senator Blas F. OplePresent*
Senator Sergio R. Osmeña III.....Present
Senator Ramon B. RevillaPresent
Senator Raul S. RocoPresent
Senator Alberto G. RomuloPresent
Senator Miriam D. SantiagoPresent
Senator Leticia R. ShahaniPresent
Senator Vicente C. Sotto III.....Present
Senator Francisco S. TatadPresent*
Senator Freddie N. WebbPresent
The President Present

The President. With 17 Senators present, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

THE JOURNAL

Senator Romulo. Mr. President, I move that we dispense with the reading of the Journal of the previous session and consider the same as approved.

The President. Is there any objection? [Silence] There being none, the reading of the Journal of the previous session is hereby dispensed with and the same is hereby deemed approved.

The Secretary will now proceed with the reading of the Order of Business.

REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Acting Secretary [Atty. Raval]. Senate Bill No. 1359, entitled

AN ACT AMENDING SECTION FOUR HUNDRED

* Arrived after the roll call

Senate Bill No. 21, as amended, is approved on Second Reading.

BILL ON SECOND READING
S. No. 436—Death by Lethal Injection
(Continuation)

Senator Romulo. Madam President, I move that we resume consideration of Senate Bill No. 436, as reported out under Committee Report No. 18.

The President Pro Tempore. Resumption of consideration of Senate Bill No. 436 is now in order.

Senator Romulo. Madam President, this is the bill designating death by lethal injection as the method of carrying out the capital punishment. This bill has already been sponsored by the then chairman of the committee, Senator Maceda.

May I now ask that the other Sponsor of the bill, Senator Herrera, be recognized for his sponsorship remarks.

The President Pro Tempore. Senator Herrera is recognized for his sponsorship speech.

SPONSORSHIP SPEECH OF SENATOR HERRERA

Senator Herrera. Thank you, Madam President.

First of all, Madam President, I would like to commend and congratulate Sen. Ernesto Maceda, the then chairman of the Committee on Constitutional Amendments, Revision of Codes and Laws for giving priority to this particular bill which is very important. In fact, this is certified by the President of the Philippines because this will give substance to the death penalty law.

Capital punishment is not the issue this afternoon. The right of the state to execute criminals convicted of heinous crimes has been settled and reestablished with the passage of Republic Act No. 7659.

The subject of our debate is the mode of implementing capital punishment in the light of present circumstances. RA No. 7659 prescribes the manner and time of executing the death penalty, thus:

Section 24, Article 81 of the same Code, as amended is hereby amended to read as follows:

ART. 81. *When and how the death penalty is to be executed.* - The death sentence shall be executed with

preference to any other and shall consist in putting the person under sentence to death by electrocution. The death sentence shall be executed under the authority of the Director of Prisons, endeavoring so far as possible to mitigate the sufferings of the person under sentence during electrocution as well as during the proceedings prior to the execution.

If the person so desires, he shall be anaesthetized at the moment of the execution.

As soon as facilities are provided by the Bureau of Prisons, the method of carrying out the sentence shall be changed to gas poisoning.

The death sentence shall be carried out not later than one (1) year after the judgment has become final.

Since the law took effect in 1994, 114 have been convicted and sentenced to death. If the Supreme Court will uphold their sentences, then according to the law, these sentences will have to be carried out not later than a year after such judgment.

But the Bureau of Corrections is not equipped to carry out the provisions of the law because there are no existing facilities for execution as prescribed by the law. The Old Bilibid Prison's electric chair was—ironically—burned in 1986. It would cost an estimated P2.5 million to replace.

On the other hand, the facility for gas poisoning that the law prescribes as a replacement for electrocution would entail an estimated cost of P6 million. The amounts are of no significant consequence. In the absence of a better alternative, Congress can find and allocate the financial requirements for setting up these facilities.

But we have an alternative—death by lethal injection which is proposed in Senate Bill No. 436. Our deliberations today should then focus on the comparative features of electrocution, gas poisoning, and lethal injection as the mode for carrying out Section 24 of RA No. 7659.

Death by electrocution or by gas poisoning is too horrible to describe. Suffice it to say that through these methods, as medical experts observe, the convict physically experiences the pain and agony of death while witnesses hear, smell, and later see in the cadaver the manifestations of this pain. Additionally, cyanide gas leakage from a faulty gas chamber can jeopardize public health and safety.

Lethal injection, on the other hand, is described as “easier on the convict, the witnesses and the executioners.” It is like

"putting a person to sleep" and the only pain to the convict comes from the initial prick of the needle.

The procedure goes this way. The condemned person is first strapped on a table. Then a technician inserts a needle into a vein to begin an intravenous flow of saline solution. Then at the appointed time, the warden gives the signal, and a blend—not a mixture—of three drugs is introduced into the intravenous line. These are, first, a non-lethal dose of sodium thiopental to put this person to sleep; then lethal doses of pancuronium bromide to paralyze the muscles; and then potassium chloride, to stop the heart. The first two drugs are those used during surgery to put the patient to sleep and to relax his muscles; the third is used in heart bypass operations. The whole procedure can be over in about 10 minutes.

Of the three methods, lethal injection comes out cleaner, quicker and painless. It also has the added feature of costing very much less.

It is for these reasons that of the 38 states in the United States of America that have the death penalty, 27 have adopted lethal injection either as an exclusive method of execution or as an option.

We have, of course, heard of botched executions for all three methods. The accidents, however, do not alter the relative merits of lethal injection vis-a-vis electrocution or gas poisoning. Rather, they serve as a reminder that for whatever method we ultimately choose, we should select and train carefully those who will make up the execution team. Along this thought, credit must go to our esteemed chairman and members of the Committee on Constitutional Amendments, Revision of Codes and Laws for including a provision in Senate Bill No. 436 as reflected in Committee Report No. 18, to wit:

The Director of the Bureau of Corrections shall take steps to ensure that the lethal injection to be administered is sufficient to cause the instantaneous death of the convict.

The authorized physician of the Bureau of Corrections, after thorough examination, shall officially make a pronouncement of the convict's death.

Madam President, as the Chair may be aware, I support the recommendation of the Bureau of Corrections and the Department of Justice to adopt lethal injection as the mode of implementing the capital punishment. I am convinced that it is the best of the three methods.

My greater concern, however, is for the early settlement of

the issue so that we can fully implement Republic Act No. 7659 and as envisioned, deter the commission of more heinous crimes. As the Body knows, Madam President, the death penalty is not merely a sentence; it is the whole process that starts from arrest to prosecution, to conviction and imposition of death to automatic review and final judgment by the highest court, and to execution of the sentence. It is the latter rather than the imposition of the sentence that is the substance of the penalty.

As I mentioned earlier, 114 convicts are in the Bureau of Corrections' death row but the Bureau is still not equipped to carry out any final judgment that the Supreme Court may hand down. Surely, this gives the criminals and the public at large the impression that the government lacks the will to enforce the law so that in the meantime, the number of heinous crimes keeps increasing.

Impressions such as these, Madam President, have a way of slowly eating away the people's confidence in their government. We cannot and must not allow this to happen. We have to protect the government's credibility to preserve and promote law and order.

I say, let us equip the Bureau of Corrections with the facility to enforce the final judgment of death by the Supreme Court. I propose the use of lethal injection to carry it out.

Thank you, Madam President.

SUSPENSION OF THE SESSION

Senator Romulo. Madam President, may I ask for a one-minute suspension of the session.

The President Pro Tempore. The session is suspended, if there is no objection. [*There was none.*]

It was 6:18 p.m.

RESUMPTION OF THE SESSION

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

The President Pro Tempore. The session is resumed.

SUSPENSION OF CONSIDERATION OF S. NO. 436

Senator Romulo. Madam President, I move that, in the meantime, we suspend consideration of Senate Bill No. 436, designating death by lethal injection as a method of carrying out

the capital punishment, until tomorrow.

The President Pro Tempore. Is there any objection?
[Silence] There being none, the motion is hereby approved.

Senator Romulo. Madam President, tomorrow, Thursday, we shall resume consideration and we shall have the period of interpellations of the following bills: Senate Bill No. 1081, repealing Republic Act No. 529, as amended. This is the Act on the uniform value of Philippine coin and currency; Senate Bill No. 436, under Committee Report No. 18, the bill just sponsored by Senator Herrera; and Senate Bill No. 1220, the bill amending the Local Government Code, sponsored by

Senators Sotto and Mercado today.

SUSPENSION OF THE SESSION

Senator Romulo. Madam President, there being no other business in today's calendar, I move that we suspend this evening's session until tomorrow, Thursday, at ten o'clock in the morning.

The President Pro Tempore. Is there any objection?
[Silence] There being none, the session is suspended until tomorrow, Thursday, ten o'clock in the morning.

It was 6:24 p.m.

RECORD OF THE SENATE

TUESDAY, JANUARY 30, 1996

OPENING OF THE SESSION

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

The President. The 49th Session of the Senate in the First Regular Session of the Tenth Congress of the Philippines is hereby called to order.

We shall rise and be led in prayer by Sen. Juan M. Flavier.

Everybody rose for the opening prayer.

PRAYER

Senator Flavier.

Our Father in Heaven, from Whom all blessings flow:

Just as You came not to be served but to serve, may we always keep in mind that we were elected not to be masters but to be servants of the people.

We ask You to constantly remind us to be true servants of our countrymen--serving the country as we should, giving without counting the costs, fighting for what we believe in without heeding the pains of wounds, laboring in the Session Hall and committee meetings without asking for reward, except that of knowing that we do these for the country and our people and for Your greater glory.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Acting Secretary [Atty. Raval].

- Senator Heherson T. Alvarez Present*
Senator Edgardo J. Angara Present
Senator Anna Dominique M.L. Coseteng Present
Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present
Senator Marcelo B. Fernan Present
Senator Juan M. Flavier Present
Senator Ernesto F. Herrera Present
Senator Gregorio B. Honasan Present

* Arrived after the roll call

- Senator Gloria M. Macapagal Present
Senator Ernesto M. Maceda Present
Senator Ramon B. Magsaysay Jr. Present
Senator Orlando S. Mercado Present*
Senator Blas F. Ople Present
Senator Sergio R. Osmeña III Present
Senator Ramon B. Revilla Absent
Senator Raul S. Roco Present
Senator Alberto G. Romulo Present
Senator Miriam D. Santiago Present*
Senator Leticia R. Shahani Present
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad Present
Senator Freddie N. Webb Present
The President Present

The President. With 20 Senators present, the Chair declares the presence of a quorum.

THE JOURNAL

Senator Romulo. Mr. President, I move that we dispense with the reading of the Journal of the previous session and consider the same as approved.

The President. Is there any objection? [Silence] There being none, the motion is approved.. Therefore, the reading of the Journal of the previous session is dispensed with and the same is considered approved.

The Secretary will now read the Order of Business.

REFERENCE OF BUSINESS

BILL ON FIRST READING

The Acting Secretary [Atty. Raval]. Senate Bill No. 1374, entitled

AN ACT TO RE-ENGINEER THE BUREAUCRACY FOR BETTER GOVERNANCE, GRANTING AND DEFINING THE AUTHORITY OF THE PRESIDENT THEREFOR, AND FOR OTHER RELATED PURPOSES

Introduced by Senator Shahani.

The President. Referred to the Committee on Civil Service and Government Reorganization.

RESOLUTIONS

The Acting Secretary [Atty. Raval]. Proposed Senate

Introduced by Senator Romulo.

The Presiding Officer [Senator Sotto]. Referred to the Committee on Justice and Human Rights.

The Secretary. Senate Bill No. 1372, entitled

AN ACT PROHIBITING ANY PERSON FROM PRIVATELY COMMUNICATING WITH A JUDGE, FISCAL, ADMINISTRATIVE OFFICER, OR ANY OTHER PUBLIC OFFICER INVESTIGATING OR HEARING A CASE ON ANY MATTER PERTAINING TO SUCH CASE, PROVIDING PENALTIES THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Romulo.

The Presiding Officer [Senator Sotto]. Referred to the Committee on Justice and Human Rights.

The Secretary. Senate Bill No. 1373, entitled

AN ACT CREATING ONE (1) POSITION OF ASSISTANT OMBUDSMAN IN THE OFFICE OF THE OMBUDSMAN, WITH THE SPECIFIC DUTY TO INVESTIGATE ANTI-GRAFT COMPLAINTS AGAINST OFFICIALS, TEACHERS AND EMPLOYEES OF PUBLIC SCHOOLS, COLLEGES AND UNIVERSITIES, AND OFFICIALS AND EMPLOYEES OF THE DEPARTMENT OF EDUCATION AND THE COMMISSION ON HIGHER EDUCATION, AND FOR OTHER PURPOSES

Introduced by Senator Shahani.

The Presiding Officer [Senator Sotto]. Referred to the Committees on Justice and Human Rights; Education, Arts and Culture; and Finance.

COMMITTEE REPORT

The Secretary. Committee Report No. 46, prepared and submitted jointly by the Committees on Agriculture and Food; and Finance, on Senate Bill No. 1366 with Senators Shahani, Macapagal, Angara, Drilon, Fernan, Tatad and Maceda as authors thereof, entitled

AN ACT ESTABLISHING A STRATEGIC FOOD SECURITY RICERESERVE AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos. 1221 and 1282.

Sponsors: Senators Shahani, Maceda, and the Members of the Committees on Agriculture and Food; and Finance

The Presiding Officer [Senator Sotto]. To the Calendar for Ordinary Business.

Senator Romulo. Mr. President.

The Presiding Officer [Senator Sotto]. The Majority Leader is recognized.

Senator Romulo. Mr. President, we have for Third Reading Senate Bill No. 21, amending Republic Act No. 6425, as amended, entitled "Dangerous Drugs Act of 1972." Clean copies were distributed last January 25, 1996.

Also, Mr. President, we shall resume consideration of the following bills: Senate Bill No. 7160, the use of the IRA funds for emergency and calamity purposes by the local government units, which is for interpellation by the distinguished Minority Leader; Senate Bill No. 436, Lethal Injection as the Method of Carrying Out Capital Punishment, again for interpellation; and Senate Bill No. 1281, repealing the Uniform Currency and Coin Act.

SUSPENSION OF THE SESSION

Mr. President, so that we can prepare for the interpellation on these bills, may I ask for a one-minute suspension of the session.

The Presiding Officer [Senator Sotto]. The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 5:41 p.m.

RESUMPTION OF THE SESSION

At 5:43 p.m., the session was resumed.

The Presiding Officer [Senator Sotto]. The session is resumed.

BILL ON SECOND READING S. No. 436—Death by Lethal Injection (Continuation)

Senator Romulo. Mr. President, I move that we resume

consideration of Senate Bill No. 436 as reported out under Committee Report No. 18.

The Presiding Officer [Senator Sotto]. Resumption of consideration of Senate Bill No. 436 is now in order.

Senator Romulo. Mr. President, we are still in the period of interpellations. Senators Maceda and Herrera have delivered their respective sponsorship remarks last week. We are now ready for interpellations.

May I ask that Senator Maceda be recognized.

The Presiding Officer [Senator Sotto]. Senator Maceda is recognized.

Senator Maceda. Mr. President, the parliamentary status is there have been interpellations on this bill even before Senator Herrera, who was then unavailable, delivered his sponsorship speech. So if there are no further interpellations, I ask that we move to the period of committee amendments.

Senator Romulo. Mr. President, since this bill was taken up before we adjourned the session last December, may I just ask a few questions, if the Sponsor would so yield.

Senator Maceda. Willingly, Mr. President.

Senator Romulo. Mr. President, what are the methods now used in carrying out capital punishment?

Senator Maceda. If the distinguished Gentleman is referring to the methods used worldwide, I guess the most common is the electric chair. Another one is the lethal injection. And in some countries, they still have the firing squad. But I was surprised to learn the other day that there was one state of the United States—I wonder if it was Iowa or South Dakota—where the convict is allowed a choice between the lethal injection and the firing squad. In that case, he chose to be executed by firing squad.

The other form of carrying out the death sentence is also by the use of the so-called gas chamber. Those are basically the principal methods, Mr. President.

Senator Romulo. Mr. President, it stands to reason then that if this bill is passed, this will only be the method by which the capital punishment may be carried out.

Senator Maceda. That is correct, Mr. President. The principal Author and the Committee feel that this is not only the most economical, but actually the most humane form of execution.

Senator Romulo. Yes, Mr. President. I believe that during the discussions of this bill in committee hearings, it was pointed out that the most humane would be the lethal injection method. Is that not correct?

Senator Maceda. That is correct, Mr. President. because death is instantaneous, just within a minute or two, and with very little pain just like any other injection of medicine or similar procedure. That is all about it.

Senator Romulo. Mr. President, Congress had passed the capital punishment law. Has there been any execution by capital punishment since the law took effect?

Senator Maceda. No, Mr. President, because under the law that we passed, all death penalty decisions are automatically elevated to the Supreme Court for review. It is my information that there are over a hundred death penalty impositions, but not a single case for review by the Supreme Court has been decided. But we are hopeful that soon it would be so, and probably the passage of this bill would further encourage the Supreme Court to expedite its decisions on the matter.

Senator Romulo. Thank you, Mr. President. I would like to thank the distinguished Sponsor for his answers.

For the next interpellation, Mr. President, may I ask that the distinguished Gentleman from Iloilo, Senator Drilon, be recognized.

The Presiding Officer [Senator Sotto]. Senator Drilon is recognized.

Senator Drilon. Thank you, Mr. President. Will the distinguished Gentleman from Manila and Ilocos Sur yield for one question for clarification, Mr. President?

Senator Maceda. Willingly, to the legal and judicial expert of the Chamber, Mr. President. The only remaining and legitimate eligible bachelor of the Chamber at this point.

Senator Drilon. I noticed the word "eligible." Mr. President.

Senator Maceda. And legitimate. There are illegitimate bachelors in this Chamber, Mr. President.

Senator Drilon. Having settled that issue, Mr. President, on page 2 of Senate Bill No. 436, it is provided here that the death sentence shall be carried out not later than one year after the judgment has become final. I would just like to get a confirmation from the distinguished Sponsor if this provision will not in

any way interfere with or diminish the constitutional power of the President to reduce or commute or grant pardon to convicts who are sentenced to death through lethal injection as provided under this bill.

Senator Maceda. No, Mr. President, it would not diminish the power of the President. I would express the view at this time that while we hope that the President will make such judgment within the one-year period, I would take the view that if within the one-year period or near the end of the expiration of the one-year period he were to issue a suspension or commutation, then certainly the constitutional power lodged in him cannot be diminished by legislation.

Senator Drilon. Can the President commute a death penalty to life imprisonment after one year from the time the judgment has become final?

Senator Maceda. I would say that as long as the convict is not yet dead or executed, then the President still retains that power.

Senator Drilon. So that, Mr. President, this particular provision would be simply directory, not mandatory, on the Bureau of Corrections director?

Senator Maceda. I would say, Mr. President, that in the absence of presidential action, it would be mandatory on the Bureau of Corrections director to carry out the death penalty if he does not receive any corresponding instructions or order from the President.

Senator Drilon. Nevertheless, it is clear that there is no intention to diminish the power of the President. So that a commutation of a sentence issued by the President on the 367th day after judgment has become final would still result in the commutation of that sentence imposed upon a convict?

Senator Maceda. I would subscribe to that interpretation, Mr. President.

Senator Drilon. Thank you, Mr. President, for those clarifications.

Senator Romulo. Mr. President.

The Presiding Officer [Senator Sotto]. The Majority Leader is recognized.

Senator Romulo. For the final interpellation, Mr. President, I ask that the distinguished Gentleman from Baguio City and the Cordilleras, Senator Flavier, be recognized.

The Presiding Officer [Senator Sotto]. Senator Flavier is recognized.

Senator Flavier. Mr. President, will my mentor and the Senator from Laguna, Manila and Ilocos Sur, and the other eligible bachelor allow me to ask a few questions?

Senator Maceda. Willingly, Mr. President, and I really hope the Gentleman is correct in saying I was an eligible bachelor. If I were so, I would probably aspire to follow in the footsteps of Senator Mercado right away.

Senator Flavier. We will arrange that, Mr. President.

My simple clarification, Mr. President, is on how the lethal injection will be implemented. It is my understanding that in the case of, say, a firing squad, they generally have several people who would fire the gun, but only one would have the slug and the others would be empty. In the case of an injection, I am just wondering how this will be done to remove the psychological impact on the doctor who would push the plunger to put the lethal injection into the veins of the convict.

Senator Maceda. Mr. President, I guess that, first, this would be subject to regulation by the Executive department. Second, it is my impression that it need not necessarily be a doctor.

As we very well know, in the matter of injecting, any person could be trained to inject any substance. So, I do not know if by executive regulation they will decide that more than one person will administer injections. But that might make it inhumane. A lot of people somehow are afraid of injections.

Senator Flavier. Yes, I understand, Mr. President. I was just wondering whether we can treat it by way of an intravenous, like the way we do with the dextrose. Therefore, there would be this plastic tube that would be inserted into the vein and there would be about four people who would then plunge in the substance and only one of them would be the lethal element.

I am just asking out of curiosity.

Senator Maceda. I will recommend to the Secretary of Justice, Mr. President, to engage the services of the Gentleman as a consultant on how to execute this particular law.

Senator Flavier. I would accept, Mr. President, if the distinguished Senator will join me.

Senator Maceda. Will join the Gentleman?

Senator Flavier. Yes, as consultant.

Senator Maceda. Unfortunately, the only kind of injection that I know is not anywhere near the medical injection variety. [Laughter]

Senator Flavier. I can serve as consultant for that also. Thank you, Mr. President.

Senator Romulo. Mr. President.

The Presiding Officer [Senator Sotto]. The Majority Leader is recognized.

Senator Romulo. Still for the interpellation, may I ask that the following be recognized in this order: Senator Webb and then Senator Macapagal.

The Presiding Officer [Senator Sotto]. Senator Webb is recognized.

Senator Webb. Will my good friend, Senator Maceda, yield for just a couple of questions?

Senator Maceda. Willingly, Mr. President, to the Chairman of the Committee on Health and Demography.

Senator Webb. Thank you, Mr. President.

I guess the distinguished Senator brought out a very good point when asked by Senator Flavier, that one need not be a doctor to administer this injection. Because I do not think any doctor will agree to conduct this execution as far as the law is concerned.

My question is, Mr. President: has there been any, for instance, researches here and abroad supporting the use of lethal injection?

Our idea here, if I am right, Mr. President, is to look for a substance which will have a less agonizing effect on the convict. Am I right?

Senator Maceda. The Gentleman is right, Mr. President, and the answer to his question is, there are no researches here, although this Representation did read into this even when the main bill for reimposing the death penalty was debated on the Floor several years back. I get the impression that, at least, in the United States, the more favored way of implementing a death penalty sentence now is lethal injection.

Senator Webb. How many countries, Mr. President, use lethal injection—those countries that have capital punishment?

Senator Maceda. I do not know the exact number, but it is my impression, Mr. President, that several countries use this.

Senator Webb. Mr. President, let us take as an example the

*lethal injection as the means for execution.

Would the distinguished Senator say that there will be a difference in build, even sex and gender and age? It will depend on how much poison will be injected into the body. For instance, if we inject a 110-lb. female and compare it to a 220-lb. burly man, then we cannot use the same substance and quantity.

My point is, who would decide on the quantity to be used on a particular convict?

Senator Maceda. That is the reason, Mr. President, for the Committee amendment, which reads: "The Director of the Bureau of Corrections shall take steps to ensure that the lethal injection to be administered is sufficient to cause the instantaneous death of the convict."

Senator Webb. May I hear the last portion, Mr. President?

Senator Maceda. "...is sufficient to cause the instantaneous death of the convict."

Senator Webb. I see.

Senator Maceda. So, I guess, upon consultation with medical people, they will determine that a certain dosage would be sufficient to cause instantaneous death to any person of whatever sex or whatever weight or size.

Senator Webb. So this will be a Committee amendment, Mr. President.

Senator Maceda. Yes, Mr. President. This is a Committee amendment.

Senator Webb. I would like to ask the Gentleman's opinion, in preparation of a committee amendment, on page 2, lines 7 and 8.

On page 2, lines 7 and 8, we will notice that judgments imposing the death penalty do not specify how the convicts shall be executed. Thus, the said sentence is really unnecessary.

Senator Maceda. That may be true, Mr. President, but I guess this was just put there to make sure that should some RTC judge, aware of the fact that the present system in the law as existing is by electrocution, has put that into his decision, which is possible, then this paragraph will take care of that. There might be a technicality if somehow the decision reads "sentence to death by electric chair" or something like that.

Senator Webb. This is more like a safety net, Mr. President.

Senator Maceda. That is correct, Mr. President, just to make sure.

Senator Webb. To make sure that they understand that there is a law, that the supposed means of the death penalty is through lethal injection.

Senator Maceda. That is correct, Mr. President.

Senator Webb. Thank you very much, Mr. President.

Senator Macapagal. Mr. President.

The Presiding Officer [Senator Sotto]. Senator Macapagal is recognized.

Senator Macapagal. Mr. President, would the Gentleman yield for just a few questions for clarification?

Senator Maceda. Willingly, Mr. President, to the topnotcher Senator from Pampanga and Pangasinan.

Senator Macapagal. Thank you, Mr. President. Is there going to be only one single lethal injection or combination of several injections?

Senator Maceda. We would expect, as a rule, that there would be only one. But there is nothing in the bill that would prevent the Bureau of Corrections from putting in its regulations should a physician determine that the convict is still alive after one injection, that another injection could be administered. I understand that is the usual procedure in other countries.

Senator Macapagal. I notice that the bill does not specify exactly what drug, chemical, or combination of drug and chemical is to be administered. Is my impression correct, Mr. President?

Senator Maceda. Yes, Mr. President. Precisely, those are the kinds of details that are better left to the Executive department to implement by administrative regulation.

Senator Macapagal. Therefore, it would be up to the director of the Bureau of Corrections to choose the drugs or chemicals to be used. Is that correct, Mr. President?

Senator Maceda. I would think this is a matter that would be initiated by the director of the Bureau of Corrections. But following established procedure, it will have to be with the approval of the Secretary of Justice.

Senator Macapagal. Mr. President, if the law does not

expressly state the specific drugs or chemicals to be used, is it not possible that the wrong drugs or chemicals will be administered, and as a result, the person under sentence might survive the injection or the person injected may die slowly and painfully due to the drugs administered to his system?

Senator Maceda. We did discuss that in the hearings, and that is again part of the reasons for the first paragraph which states, as specific as we could go, that "The Director of the Bureau of Corrections shall take steps to ensure that the lethal injection to be administered"—or whatever kind it is—"is sufficient." And that is with regard to the kind and the quantity to cause the instantaneous death of the convict.

Senator Macapagal. My impression also, Mr. President, is that this paragraph has been deleted, and I quote: "If the person under sentence so desires, he shall be anaesthetized at the moment of the execution."

Am I correct that this paragraph is no longer in the bill?

Senator Maceda. That is correct, Mr. President, because I understand that is no longer necessary. What the person will feel will just be the usual insect-bite type of injection. I do not know, maybe the other reason is, if we put anaesthesia, it might retard the immediate or the instantaneous effectivity of the injection.

Senator Macapagal. Because if he can have a gaseous anaesthesia, then it will be even more humane than even allowing him to feel the prick of the needle. Would it be very violative of any principle to restore this paragraph, Mr. President?

The Presiding Officer [Senator Sotto]. With the permission of the Gentleman and the distinguished Lady.

As additional information, the normal procedure in most countries, in all countries that use lethal injection, is that the convict is given three injections. The first injection is to put him to sleep; the second injection is to relax his muscles; and the third injection is to stop his heart.

Senator Maceda. I see. In lieu of the anaesthesia, it appears that the fact that he is put to sleep will take care of that.

Senator Macapagal. Does this mean, therefore, that it is really a combination of several injections rather than one single injection?

Senator Maceda. That is what the Presiding Officer has just given us, and I agree with him.

Senator Macapagal. And so they would be administered

not simultaneously but in succession?

Senator Maceda. Yes, Mr. President.

Senator Macapagal. Mr. President, there is also a new paragraph inserted by the Committee which says, "that the lethal injection to be administered is sufficient to cause the instantaneous death of the convict."

What is exactly meant by "instantaneous"?

Senator Maceda. Well, almost immediately within seconds.

Senator Macapagal. The fifth paragraph of the explanatory note says that the lethal injection works in less than ten seconds." So, would this be the meaning of "instantaneous"?

Senator Maceda. May I have that again, Mr. President?

Senator Macapagal. In the explanatory note, there is a statement that says that the lethal injection will work in less than ten seconds. So, if it is longer than ten seconds, would that no longer be considered instantaneous or would it still be considered instantaneous?

Senator Maceda. I guess that would still be considered instantaneous.

Senator Macapagal. And as far as the procedure is concerned, the bill does not also state exactly how the execution is to be carried out, or the procedure to be used. Is there no intention or would it not be more pragmatic for the law to provide the procedure to be undertaken in carrying out the execution in order to lessen the possibility of negligence during the actual execution?

Senator Maceda. We felt, Mr. President, that when it comes to the details of the procedure, it would be better to leave it to administrative regulation. After all, the main import of the law really is to change the method of execution from the electric chair to lethal injection.

I do not recall that when we provided for the electric chair, for example, or in the previous Revised Penal Code provisions, the procedure of how to carry out the electrocution, the wattage, the kind of chair, the placing of the seat or the chamber, et cetera, were in the law—those were all left to the Bureau of Prisons to take care of.

Senator Macapagal. Thank you, Mr. President, for these clarifications.

Senator Maceda. Thank you.

The Presiding Officer [Senator Sotto]. The Majority Leader is recognized.

Senator Romulo. Mr. President, may I ask that the Gentleman from the Cagayan Valley, Senator Alvarez, be recognized for his interpellation.

The Presiding Officer [Senator Sotto]. The Senator from Isabela, Senator Alvarez, is recognized.

Senator Alvarez. Thank you very much, Mr. President. Will the Gentleman yield for a few questions?

Senator Maceda. Willingly, Mr. President.

Senator Alvarez. I remember, Mr. President, that we decided to restore the death penalty.

Senator Maceda. Yes, that is the existing law. Mr. President. It is something that we are not reopening with regard to this bill.

Senator Alvarez. I was wondering because there was a lot of debates on the rationale for restoring the death penalty. What was the principal thrust when we restored it? Was it because we wanted to send a more determined message to the society that heinous crimes or outstandingly criminal acts should be inflicted the ultimate penalty? Or do we want to set some kind of an exemplar for our society?

Senator Maceda. I guess both, Mr. President. The principal hope was that it would serve as a major deterrent to crime which, even at that time, was already considered very serious. I recall it very graphically because, at one time, I was against the death penalty but then I reluctantly changed my vote in favor of the death penalty because the crime situation has worsened.

It is my impression that since that time, while the death penalty has not acted as a deterrent, the crime situation has more than doubly worsened. Maybe part of the reason it has not really acted as a deterrent yet is that there has been no execution of the death penalty up to this point in time.

I am glad that the distinguished Author of this bill has issued yesterday a call to the Supreme Court to expedite the decision of over a hundred cases pending before it so that the implementation of the death penalty law could be carried out. It is only then—after, let us say, a hundred or so executions are conducted—where we can really have a better idea of whether or not the deterrent function of the death penalty law will go into action or effect.

Senator Alvarez. I was wondering, Mr. President, whether the mode and manner of inflicting the death penalty alter the deterrent character of the death penalty. In this particular case, we seem to be stepping backward to make it so seemingly innocuous and humane by giving lethal injection, and even preceding it with some kind of a pain killer before inflicting the injection. We seem to discharge ourselves the moral mandate of inflicting it because society calls upon us to inflict it.

I am saying this, Mr. President, because the conversations and discussions here seem to center on looking for the most humane, harmless and innocuous way of inflicting it when the idea of taking the responsibility of inflicting the death penalty is to set an exemplar to society and to show a deterrent.

Will that diminish the social intention of having the death penalty as a deterrent before these abominations that we are trying to control?

Senator Maceda. Mr. President, if we go by the explanatory note of the bill, it would seem that the first major reason for the change is financial. The explanatory note—and this was, of course, six months ago—says: “A new electric chair costs P2.6 million, while the building of a chamber costs P6 million. Electrocuting and gas poisoning are too expensive compared to only about a thousand pesos needed for each lethal injection.”

Also, on the point that the Gentleman raised, lethal injection really gets rid of the horrible and gruesome sight of a convict dying in agony, like trembling while being electrocuted, or gasping inside the gas chamber and showing frightening signs of being tortured to death. In using lethal injection, the only pain felt is the initial prick of the needle.

Senator Alvarez. Mr. President, I wanted to explore some more these humane tendencies in this bill. If the intention is really to make it as painless as possible to the convict, perhaps we can resort to some ways of poison that he may painlessly and gradually perish.

Was it Socrates who was condemned to drink the hemlock while he was talking to his disciples so that he painlessly faded away from the earth having drunk such quantity of the poison that took away his life? Again, is it our intention to make it as humane as possible? Would this not diminish the exemplar character?

There are jurisdictions in the United States where the death penalty is inflicted with a firing squad. Has the Committee considered this use, Mr. President?

Senator Maceda. No, Mr. President. We must admit that

the Committee never considered using firing squad as a penalty. We just stuck to the representations of the author of the bill under the explanatory note, and the Committee agreed with him. We have conducted an inspection of the New Bilibid Prisons and, really, it would cost a lot to build a new death chamber. Under the present law, even that is supposed to be eventually changed to gas poisoning which will cost much more.

As the distinguished Gentleman knows, even now, there are proposals to dispose of the New Bilibid Prisons area and transfer it to another less expensive property to be able to monetize the New Bilibid Prisons area. The author rightly pointed out that lethal injection can be administered anywhere in case the New Bilibid Prisons will be transferred to another site. The instruments and chemicals for lethal injection will be simply packed up. There will be no gas chamber to be abandoned nor electric chair to be reinstalled.

Senator Alvarez. So, the decision to use injectable poison is only a question of economics, Mr. President?

Senator Maceda. That is really the first justification that was placed chronologically in the explanatory note. But we do agree that lethal injection is a less expensive way of implementing the law.

Senator Alvarez. So was it not at all a consideration of some humane or more ethical way of disposing another human being?

Senator Maceda. That was a concurrent reason. We admit that, as represented by researchers on the matter, lethal injection is considered a more humane way than the electric chair.

Senator Alvarez. But why not the drinking of a hemlock which is more celebrated, Mr. President?

Senator Maceda. I guess the real answer to that is that the lethal injection is the more modern way. That is precisely why we do not want to put these specifics in the bill, because medical development might further discover other substances or other poisons that might be more effective than what they would be using initially in the first few years of the implementation of this bill, if it becomes a law.

Senator Macapagal. Mr. President.

Senator Alvarez. Not the economy.

Senator Macapagal. May I just intervene about the hemlock.

The Presiding Officer [Senator Sotto]. Senator Macapagal is recognized.

Senator Alvarez. Mr. President, let me finish and pursue my questions before I am interrupted because I might lose this train of questioning.

Senator Macapagal. All right.

Senator Alvarez. Supposing the economy has already improved and we can very well afford to have gas chambers and electric chairs, would the Committee consider restoring the electric chair or the gas chamber?

Senator Maceda. No, Mr. President, because there is another reason. It is my impression that it would take some time to bid out and to purchase the electric chair from abroad or to set it up. And it is my impression—or maybe it is more of a hope than an impression—that shortly within weeks, the Supreme Court should be coming out with some confirmation or with approval of death penalty decisions. And there would be no problem implementing the death penalty immediately by the use of the lethal injection method while it may really take some time to put up an electric chair or room, and most especially a gas chamber operation.

Senator Alvarez. How many are there now in the death row?

Senator Maceda. My understanding is, there are over a hundred, Mr. President.

Senator Alvarez. Therefore, we are voting for this because it is cheap and expeditious.

Senator Maceda. That is one of the reasons, Mr. President.

Senator Alvarez. Thank you, Mr. President.

The Presiding Officer [Senator Sotto]. The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a one-minute suspension of the session.

The Presiding Officer [Senator Sotto]. The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 6:21 p.m.

RESUMPTION OF THE SESSION

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

The Presiding Officer [Senator Sotto]. The session is resumed.

SUSPENSION OF CONSIDERATION OF S. NO. 436

Senator Romulo. Mr. President, after consultation with the Sponsor, and in order to allow some members to interpellate in tomorrow's session, may I move that we suspend consideration of Senate Bill No. 436 until tomorrow.

The Presiding Officer [Senator Sotto]. Is there any objection? [*Silence*] There being none, the motion is approved.

Senator Romulo. Mr. President, we shall now consider Senate Bill No. 1220.

SUSPENSION OF THE SESSION

Mr. President, may I ask for a one-minute suspension of the session to allow some members to prepare their interpellations.

The Presiding Officer [Senator Sotto]. The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 6:23 p.m.

RESUMPTION OF THE SESSION

At 6:25 p.m., the session was resumed with the President of the Senate, Hon. Neptali A. Gonzales, presiding.

The President. The session is resumed.

Senator Romulo. Mr. President, may I ask that the distinguished Senator from Pampanga, Pangasinan and Negros Occidental, Senator Macapagal, be recognized.

The President. Senator Macapagal is recognized.

Senator Macapagal. Thank you, Mr. President. I just wanted to pursue the intervention that I was seeking to make earlier about the reference to the hemlock. I suppose today that hemlock would be poison; it would be intaking poison.

I just wanted to share the experience of a friend of mine whose husband committed suicide by drinking poison, and he manifested many unpleasant symptoms before he finally

RECORD OF THE SENATE

TUESDAY, JANUARY 30, 1996

OPENING OF THE SESSION

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

The President. The 49th Session of the Senate in the First Regular Session of the Tenth Congress of the Philippines is hereby called to order.

We shall rise and be led in prayer by Sen. Juan M. Flavier.

Everybody rose for the opening prayer.

PRAYER

Senator Flavier.

Our Father in Heaven, from Whom all blessings flow:

Just as You came not to be served but to serve, may we always keep in mind that we were elected not to be masters but to be servants of the people.

We ask You to constantly remind us to be true servants of our countrymen--serving the country as we should, giving without counting the costs, fighting for what we believe in without heeding the pains of wounds, laboring in the Session Hall and committee meetings without asking for reward, except that of knowing that we do these for the country and our people and for Your greater glory.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Acting Secretary [Atty. Raval].

- Senator Heherson T. Alvarez Present*
Senator Edgardo J. Angara Present
Senator Anna Dominique M.L. Coseteng Present
Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present
Senator Marcelo B. Fernan Present
Senator Juan M. Flavier Present
Senator Ernesto F. Herrera Present
Senator Gregorio B. Honasan Present

* Arrived after the roll call

- Senator Gloria M. Macapagal Present
Senator Ernesto M. Maceda Present
Senator Ramon B. Magsaysay Jr. Present
Senator Orlando S. Mercado Present*
Senator Blas F. Ople Present
Senator Sergio R. Osmeña III Present
Senator Ramon B. Revilla Absent
Senator Raul S. Roco Present
Senator Alberto G. Romulo Present
Senator Miriam D. Santiago Present*
Senator Leticia R. Shahani Present
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad Present
Senator Freddie N. Webb Present
The President Present

The President. With 20 Senators present, the Chair declares the presence of a quorum.

THE JOURNAL

Senator Romulo. Mr. President, I move that we dispense with the reading of the Journal of the previous session and consider the same as approved.

The President. Is there any objection? [Silence] There being none, the motion is approved.. Therefore, the reading of the Journal of the previous session is dispensed with and the same is considered approved.

The Secretary will now read the Order of Business.

REFERENCE OF BUSINESS

BILL ON FIRST READING

The Acting Secretary [Atty. Raval]. Senate Bill No. 1374, entitled

AN ACT TO RE-ENGINEER THE BUREAUCRACY FOR BETTER GOVERNANCE, GRANTING AND DEFINING THE AUTHORITY OF THE PRESIDENT THEREFOR, AND FOR OTHER RELATED PURPOSES

Introduced by Senator Shahani.

The President. Referred to the Committee on Civil Service and Government Reorganization.

RESOLUTIONS

The Acting Secretary [Atty. Raval]. Proposed Senate

RESUMPTION OF THE SESSION

At 5:42 p.m., the session was resumed.

The President. The session is resumed. The Majority Leader is recognized.

Senator Mercado. Mr. President, I move that we suspend consideration of Senate Bill No. 1081.

The President. Is there any objection to this motion?

Senator Roco. I would tend to object, Mr. President.

SUSPENSION OF THE SESSION

Senator Mercado. Mr. President, may I ask for a suspension of the session.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 5:42 p.m.

RESUMPTION OF THE SESSION

At 5:43 p.m., the session was resumed.

The President. The session is resumed.

SUSPENSION OF CONSIDERATION
OF S. NO. 1081

Senator Mercado. Mr. President, I move that we suspend consideration of Senate Bill No. 1081.

The President. Is there any objection to this motion? [*Silence*] There being none, consideration of Senate Bill No. 1081 is hereby suspended.

BILL ON SECOND READING

S. No. 436—Lethal Injection as the Method
of Carrying out Capital Punishment
(Continuation)

Senator Mercado. Mr. President, I move that we resume consideration of Senate Bill No. 436, as reported out under Committee Report No. 18.

The President. Resumption of consideration of Senate Bill No. 436 is now in order.

Senator Mercado. We are in the period of interpellations.

I ask that the Sponsor of the measure, Senator Maceda, and Senator Fernan, who will interpellate, be recognized.

The President. Senators Maceda and Fernan are recognized.

Senator Fernan. Mr. President, will the distinguished Gentleman from Manila, Laguna and Ilocos Sur, yield for a few questions?

Senator Maceda. Willingly, to the distinguished Gentleman from Cebu and former chief justice. I will try my best to answer the questions, but if I am unable to do so, I am glad that the principal Sponsor, Senator Herrera, who appeared in all the newspapers today with a nose mask covering his face, is here to assist me.

Senator Fernan. Mr. President, while this Representation has already signed Committee Report No. 18 with reservations on capital punishment, this Representation would like to be enlightened on certain portions of the report as it was discussed in yesterday's interpellation.

Yesterday, while Senator Maceda had the Floor, he said in answer to a question by Senator Webb, that under a proposed committee amendment, the Director of the Bureau of Corrections would take steps to ensure that the lethal injection to be administered would be sufficient to cause the instantaneous death of the convict. Is that correct, Mr. President?

Senator Maceda. That is correct, Mr. President.

Senator Fernan. And when this term "instantaneous" is used, is that a matter of a few seconds, several seconds, or several minutes?

Senator Maceda. The expectation is, based on experience on the administration of lethal injections in other countries, it would be within seconds. The explanatory note does say that it is within seconds; some people say that it could be as brief as 10 seconds.

Senator Fernan. Mr. President, according to the explanatory note, the execution is carried out by injecting into the vein of the convict a lethal combination of drugs. So, I would assume that the kind of injection is intravenous?

Senator Maceda. That is also my assumption, Mr. President.

Senator Fernan: And since several chemicals were mentioned, may I know how many injections are referred to inasmuch as it mentions the nonlethal dose of sodium thiopental, the

panouronium bromide and potassium chloride. Will all these be mixed in just one injection or applied separately?

Senator Maceda. Precisely, those are the types of questions that could be answered by technical people—the number of injections, the dosage, the kind of drugs to be used. That is why we felt that those are specific matters that need not be put in the bill.

Having said that, yesterday, the Presiding Officer, Senator Sotto, said that according to his readings, three separate injections are administered, the first one being the barbiturate or sleep-inducing drug.

Senator Fernan. In administering the injection, is the person performing the function expected to be a medical doctor, or assisted by a medical doctor?

Senator Maceda. It is our impression that he is not expected to be a medical doctor. It is our impression that in many jurisdictions, there is a great hesitance, if not objection, of medical doctors to do the same.

However, this being simply a matter of injection which, as we know, even in ordinary practice a simple nurse or a nursing aide or, for that matter, any trained person can do the same, again this detail will be left to the executive department to draw up the rules and regulations in implementing this law. But I would candidly say that it was our impression that the administration of the lethal injection would not be done by a doctor.

Senator Fernan. What kind of participation is envisioned by this law? I am referring to extent of participation on the part of the doctor.

Senator Maceda. That is in the second paragraph of the committee amendments, Mr. President, and it is limited to this: "The authorized physicians of the Bureau of Corrections, after thorough examination, shall officially make a pronouncement of the convict's death," after the injections have been administered presumably by someone else.

Senator Fernan. In the matter of administering the injections, they have nothing to do in ascertaining what particular vein will be hit by the needle in the course of injection?

Senator Maceda. That I cannot answer for sure, Mr. President. Again, I think that is a detail that precisely we would like to leave to the execution of the law.

However, I would hasten to add that there is nothing in the law, and I do not know if the regulation should include the

exclusion of the possibility that a doctor may be willing to do it. So, if they find a doctor who is willing to do it, well and good.

If I were the one drawing up the rules and regulations, certainly, I would say that any physician, nurse, nursing aide or any other qualified physician who is trained to administer injections may be authorized by the director of the Bureau of Corrections to administer the same.

Senator Fernan. My concern, Mr. President, is that the involvement of physicians in executions would be contrary to medical and ethical principles of the Hippocratic oath to preserve life and to do no harm.

In fact, if we refer to the ethical principles laid down by the World Medical Association in 1981, it provides that the involvement of physicians in some US executions has also appeared contrary to the ethical principles laid down.

Senator Maceda. We recognize that, Mr. President, and certainly there is nothing in the law precisely that requires that a physician take part in the actual process of killing the person. However, as I said earlier, there is nothing in the law that would rule that out. Because, while the aforesaid principle is correct, if we have Dr. Cercurian of Chicago here, I am sure he would be the type of a doctor who would be willing to undertake a lethal injection type of activity.

Senator Fernan. May I now dwell on the matter of an existing provision of Article 81: in lines 11 and 12 of Senate Bill No. 436, which says: "endeavoring so far as possible to mitigate the sufferings of the person."

In other words, they will try to minimize the sufferings of the convict who is sentenced to die, yet in the same vein, on page 2, lines 1, 2 and 3, it says: "The death sentence shall be carried out not later than one year after the judgment has become final."

Does the Gentleman not think that making the convict wait for a period not exceeding one year would cause him to suffer? That instead of mitigating the pain, the pain is exacerbated?

Senator Maceda. That, certainly, is a reasonable deduction or conclusion, Mr. President. Should the Gentleman desire a shorter period, all we have to do is to consult the principal author whether he is willing to shorten this period, then I will abide by the decision on that matter.

Senator Fernan. Then we will come up with the appropriate amendments during the period of amendments.

Senator Maceda. Thank you, Mr. President.

Senator Fernan. Thank you, Mr. President. Thank you, distinguished Gentleman. That will be all.

Senator Mercado. Mr. President.

The President. The Majority Leader is recognized.

Senator Mercado. Mr. President, I ask that we recognize Senator Santiago, after which the Senate President Pro Tempore will also interpellate.

Senator Santiago. Mr. President.

The President. Senator Santiago is recognized.

Senator Santiago. Mr. President, will the Gentleman yield?

Senator Maceda. Willingly, Mr. President.

Senator Santiago. Before I ask the question, please allow me to make the prefatory statement that I believe this bill does not present the proper opportunity for a discussion on whether the death penalty is humane. Therefore, I will reserve my comments on this point when the proper bill comes before the Senate.

Instead, this evening, I would like to raise simply two other points which, I believe, deserve the focus of Senate attention. The first point is the involvement of the medical profession in the execution process, a point that has been partially covered by the prior interpellation.

In the United States, the position of the American Medical Association is that physicians should not participate in the execution process following the Hippocratic oath to preserve life when there is hope of doing so.

I will therefore raise the point of whether or not the Philippine Medical Association has been requested to unburden itself one opinion on the self-saying topic.

The second point is the unapproved use by the Food and Drug Administration (FDA) of the approved prescription drugs for lethal injection.

I raised this point because of a case decided in the United States by the US Supreme Court, more particularly known as *Chaney v. Heckler* decided in 1980 where the US Supreme Court held that the FDA can prevent the use of prescription or approved drugs which are not proven safe and effective as a means of execution.

I wish to enter into the *Record* the query on whether the same position will be taken by the Authors and Sponsors of the bill as

far as Philippine implementation is concerned.

Now to go to the questions. These questions have been raised. I wish simply to emphasize them. The first question is: Who will administer the lethal injection? If it is a doctor who administers the lethal injection, would he not in effect become part of the execution process? And if he does, will he not be violating his Hippocratic oath?

The distinguished Gentleman has already replied to this inquiry that this is a matter of practice and implementation and does not necessarily have to be addressed by the bill. If that is so, then I will proceed to the next logical question. Who will approve the drug to be used for the lethal injection?

Senator Maceda. The Director of the Bureau of Corrections will draw up all the necessary rules and regulations, including the entire procedure to be followed. I suppose it will include the usual last meal of the convict; the opportunity to be visited by a pastor if he so desires; the opportunity to make a confession or go to mass or religious services if he so desires, and the whole process up to the end; the disposition of the body, et cetera and all of that. Then it will be submitted to the Secretary of Justice for approval as is standard in any department where any rules and regulations are drafted.

It will be in those rules and regulations that will be approved where, I suppose, after due consultations with all the persons involved, including the medical profession, the Secretary of Health, the Director of the Bureau of Food and Drug Administration, they will come to a decision as to which drugs may be used for the implementation of the lethal injection process.

Senator Santiago. My next question. Most recently on international satellite television, the international news services reported that an American convict sentenced to death chose to die by firing squad and he did do so rather than by lethal injection because, according to him, he was alarmed by the possibility that the injection might not be lethal but might instead, produce almost insufferable physical suffering.

Thus, the question is: How can we ensure that the dose is lethal enough to cause the instantaneous death of the convict?

Senator Maceda. Again, Mr. President, that is a technical detail that will have to be decided by the executive department; namely, the Director of Corrections principally.

Referring to that case, I also saw the same report, and the report carried the suggestion that, first of all, there was a choice because the State law of Utah allows the convict the choice whether he goes by lethal injection or by firing squad. He said that he took the unusual step of having a firing squad kill him

because he was claiming his innocence up to the very end; and he wanted greater publicity. It was some sort of a last act of protestation of his innocence. That is why he chose to undergo death by firing squad.

Senator Santiago. The last question is: Does the law contemplate and take steps to prevent a hypothetical situation from graft and corruption? In other words, are there any steps that can be taken under this law in order to guard against the possibility that penitentiary officers might be tempted to take bribe in exchange for preparing a nonlethal dose?

Senator Maceda. Mr. President, there is nothing in the law, but I suppose the rules and regulations will attend to that. He would have the same possibility even under an electric chair, that at the moment of execution, a brownout is contrived and there is an escape and all of that. Once we talk about graft and corruption in the implementation of the execution process, then any possibility can arise.

Senator Santiago. Finally, I will advert to a 1973 statement of then President Ronald Reagan:

Being a former farmer and horse racer, I know what it is like to try to eliminate an injured horse by shooting him. Now, you call the veterinarian and the vet gives it a shot and the horse goes to sleep. I, myself, have wondered if maybe this isn't part of our problem with capital punishment, if, maybe, we should review and see if there aren't even more humane methods of carrying it out now—the simple shot or tranquilizer.

Do we have any statistics or any facts or information to lead us to the conclusion that death by lethal injection is the more humane method?

Senator Maceda. The little reading that I have done on the matter—and this seems to be the same opinion of the distinguished Author—it would seem that compared to electric chair, compared to a firing squad, compared to hanging, and even compared to the gas chamber, lethal injection, so far, is the most humane.

Senator Santiago. Thank you, Mr. President.

The President. Are there any further interpellations?

Senator Mercado. Mr. President, we have a reservation from the Senate President Pro Tempore.

SUSPENSION OF THE SESSION

May I ask for a suspension of the session for a minute.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 6:04 p.m.

RESUMPTION OF THE SESSION

At 6:05 p.m., the session was resumed.

The President. The session is resumed. The Senate President Pro Tempore is hereby recognized for purposes of interpellation.

Senator Shahani. Mr. President, I wonder whether the distinguished Sponsor would entertain a few questions from this Representation.

Senator Maceda. Willingly, Mr. President, to the Senate President Pro Tempore, and if the newspapers are to be believed, a potential running mate of Vice President Joseph "Erap" Estrada.

Senator Shahani. Mr. President, that is a big "if." I am glad he put that qualification. I just would like to say here that the newspaper reports are based on pure speculation.

I think with that, Mr. President, we can begin the interpellation on this important issue, considering the very emotional debate which this Chamber had on the matter of the reimposition of the death penalty.

Mr. President, may the distinguished Sponsor update this Body on the number of convicts in the death row in this country?

Senator Maceda. Mr. President, it is about 120. Of course, I think in the last few days, there were several added.

Senator Shahani. And how many of these convictions have been affirmed by the Supreme Court, Mr. President?

Senator Maceda. None, Mr. President. They have all been elevated to the Supreme Court for review. No decision has come out.

Senator Shahani. Among these 100 who are awaiting execution, may we know how many of them are women?

Senator Maceda. It is my impression, Mr. President, that they are all male.

Senator Shahani. I wonder why this is the case, Mr. President.

Senator Maceda. Because the women in this country are more law-abiding, Mr. President.

Senator Shahani. I guess that is a justifiable conclusion, Mr. President, and that is also supported by empirical studies. But we should not also lose sight of the fact that under Philippine law, no woman has yet been meted the death penalty.

Senator Maceda. Yes, Mr. President. We are speculating on this—maybe judges are more hesitant to impose the death penalty on women.

Senator Shahani. Maybe so, but I think the fact, Mr. President, is that the crimes committed by women are certainly less vicious than the crimes committed by men; therefore, they do not merit the death penalty. Am I correct in saying this?

Senator Maceda. That is correct, Mr. President, except that if there are more mutilations, one of these days, some members of Congress might consider that as a heinous crime.

Senator Shahani. Mr. President, I brought this up because I feel that there has to be a gender-awareness in this aspect of life. I think even in the matter of convictions, it is interesting and also important to note gender classification.

Senator Maceda. Mr. President, in the interest of accuracy, the distinguished Senator from Iloilo has just called my attention to the fact that there is one woman and the case is for violation of the Dangerous Drugs Act.

Senator Shahani. Yes. I think that was a recent conviction, if I am not mistaken.

Senator Maceda. Yes, Mr. President.

Senator Shahani. Mr. President, may we know the probability or ratio of reversal of death sentences imposed by the lower courts?

Senator Maceda. Mr. President, we do not have any statistics to support that. I am just going by general knowledge in the past when the death penalty was still enforced. There have been quite a few reversals. My impression is at least one-fourth get reversed by the Supreme Court on the issue of lack of sufficient evidence or the interpretation of the evidence presented is reversed by the Supreme Court. There have been reversals but at the moment there is no way we can project any percentage of reversals by the Supreme Court.

Senator Shahani. Mr. President, this, of course, is a new method of executing the death penalty. Do we have the

advantage of knowing the experience of other countries which have used this method?

Senator Maceda. Mr. President, we do not have the specific number of countries but as I have earlier indicated to the distinguished Lady from Iloilo, the readings that we have undertaken show that between the electric chair, firing squad, gas chamber as well as hanging, lethal injection is now being accepted as the more favored way of executing death penalty on the ground that it is the most humane and the fastest.

Senator Shahani. Does this mean that we are indeed a pioneer in this area? Are we one of the countries blazing the path for lethal injection?

Senator Maceda. In this area, Mr. President?

Senator Shahani. Yes.

Senator Maceda. I would guess so, yes, because of those that are publicized like Singapore. As we know, they do not use lethal injection.

Senator Shahani. How would this type of execution be administered although we leave it to the Director of Corrections to undertake it? Certainly, the friends, the close relatives of the convicted—the condemned—would be interested to know how this would be carried out. Would the family be allowed at this last moment as may be demanded of our own culture?

Senator Maceda. Mr. President, as indicated in the explanatory note, and as further confirmed by Senator Sotto when he was presiding last night, there are three injections. The first one being a sleep-inducing barbiturate. As soon as the patient is asleep, and I understand that it goes fast, there is a second injection to paralyze the muscle and then a third injection which stops the heart.

Senator Shahani. So I take it that maybe this will be a subject of the implementing rules.

Senator Maceda. That is correct.

Senator Shahani. There is no decision really whether the family or close friends will be allowed inside the room?

Senator Maceda. I beg your pardon, Mr. President. I did not get that. I would presume almost conclusively that just like execution on the electric chair, the family of the convict is allowed to watch or to be in the room if they exercise that option or right to do so.

Senator Shahani. I take it that one of the advantages of this method is that it is painless. So it is, as the distinguished Gentleman says in his explanatory note, less agonizing and painful.

Senator Maceda. Yes, Mr. President. The convict will be put to sleep, and in a state of sleep, within seconds, he will die.

Senator Shahani. Mr. President, the second sentence of Section 2 provides that persons already sentenced by final judgment and are awaiting the execution of their sentence shall be covered by the provisions of this Act upon its effectivity and that their sentence shall be automatically modified for this purpose. Does the phrase "automatically modified" refer to the manner of execution?

Senator Maceda. That is correct, Mr. President, because as we know under the present law, we provided that the manner of execution is by electrocution as soon as the executive department or the Bureau of Corrections is able to build a gas chamber to shift to gas poisoning. As I explained, the decisions of certain regional trial courts may have specified in the decision that so and so Juan dela Cruz is sentenced to death by electrocution or gas poisoning as the case may be. And so, to remove any legal technicality that the decision imposes electrocution or gas poisoning, the law now provides for that contingency by saying that the sentence is automatically modified to change the method to death by lethal injection.

Senator Shahani. Mr. President, the fourth paragraph of Article 81 of the Revised Penal Code, as amended, provides that the death sentence shall be carried out not later than one year after the judgment has become final. To those convicts who are awaiting final judgment, will it mean that those whose sentences have remained unexecuted for more than one year will be the first ones to be executed upon the effectivity of this bill?

Senator Maceda. The law does not provide for the sequence, Mr. President. I guess as in the United States, it is not a matter of first come, first served, but a matter sometimes of whether there are pending requests for clemency, for example, that are in the Office of the President. And I suppose in certain cases there is an indication of stronger case than others.

I guess the one-year period here is provided because it could happen, for example, if the Supreme Court does not decide any of these soon, we might have a situation that before we have the first execution, we may already have 365 convicts. So that we really need such a long period to carry it out because I doubt whether or not the Bureau of Corrections or whoever is doing this would like to do more than one execution a day. This is just providing for the fact that we may have quite a few and,

therefore, we need a long period to start carrying out these death penalties.

Senator Shahani. Does the Sponsor think that this less painful way of executing the death penalty will encourage the Supreme Court to act more rapidly on these cases?

Senator Maceda. I doubt, Mr. President. I would think that the honorable justices of the Supreme Court will take what they believe is the time necessary to review the matter with judiciousness and with utmost study.

Senator Shahani. Mr. President, I would like to support this bill. Of course, it makes the imposition of the death penalty less painful in its final stages. And I believe it would be useful as part of the criminal law of this country for this bill to be adopted.

Senator Maceda. Would the distinguished Senator like to be a coauthor of this measure?

Senator Shahani. Yes, Mr. President, with great pleasure.

**MOTION OF SENATOR MACEDA
(Senators Maceda and Shahani as
Coauthors of S. No. 436)**

Senator Maceda. Please make of record, Mr. President, that the Senate President Pro Tempore and this Representation are coauthors of this measure.

The President. Let it appear on the record, if there is no objection. [*There was none.*]

Senator Mercado. Mr. President, I move that we close the period of interpellations on this measure.

The President. Is there any objection to this motion? [*Silence*] There being none, the period of interpellations is hereby deemed closed.

Senator Mercado. Mr. President, we are now in the period of committee amendments. I ask that Senator Maceda be recognized.

The President. Senator Maceda is recognized.

COMMITTEE AMENDMENTS

Senator Maceda. Mr. President, there is one committee amendment. In Section 1, between lines 15 and 16, please insert the following paragraphs to read as follows:

THE DIRECTOR OF THE BUREAU OF CORRECTIONS SHALL TAKE STEPS TO ENSURE THAT THE LETHAL INJECTION TO BE ADMINISTERED IS SUFFICIENT TO CAUSE THE INSTANTANEOUS DEATH OF THE CONVICT.

THE AUTHORIZED PHYSICIAN OF THE BUREAU OF CORRECTIONS, AFTER THOROUGH EXAMINATION, SHALL OFFICIALLY MAKE A PRONOUNCEMENT OF THE CONVICT'S DEATH.

The President. Is there any objection to this committee amendment? [*Silence*] There being none, the amendment is hereby approved.

Senator Maceda. There is no other committee amendment, Mr. President.

Senator Mercado. I move that we close the period of committee amendments, Mr. President.

The President. Is there any objection? [*Silence*] There being none, the period of committee amendments is hereby closed.

Senator Mercado. We are now in the period of individual amendments, Mr. President.

The President. Is there any individual amendments?

Senator Drilon. Mr. President.

The President. Senator Drilon is recognized.

DRILON-WEBB AMENDMENT

Senator Drilon. Mr. President, unless there is an anterior amendment, I have an amendment on page 2, line 3. After the word "final", incorporate the following phrase: WITHOUT PREJUDICE TO THE EXERCISE BY THE PRESIDENT OF HIS EXECUTIVE CLEMENCY POWERS AT ALL TIMES.

The President. What does the Sponsor say?

Senator Maceda. We accept the amendment, Mr. President.

The President. All right. The amendment is accepted.

Senator Webb. Mr. President.

The President. Senator Webb is recognized.

Senator Webb. Mr. President, on the amendment of Senator Drilon, before I agree with his amendment, I would like to ask something if Senator Maceda would not mind.

Mr. President, do the words "final judgment" mean it is appealable?

Senator Maceda. This means that the Supreme Court has already made a final review on the matter, Mr. President.

Senator Webb. Instead of the word "final", may we not use the word EXECUTORY?

Senator Maceda. We do not mind accepting that amendment; the amendment is in effect after the judgment has become final AND EXECUTORY.

Senator Webb. That is my amendment, if Senator Drilon will accept it.

The President. Is that acceptable to Senator Drilon? How about the Sponsor?

Senator Drilon. Mr. President, the word "final" is used in the Constitution, but there is really no harm in making it "final AND EXECUTORY". When we say "final", that means the judgment has been entered in the record of the Supreme Court and therefore it becomes executory from that point. But as I said, if the principal Sponsor will accept it, I have no objection to that.

The President. Does the principal Sponsor accept the amendment?

Senator Maceda. We gladly accept, Mr. President.

The President. Is there any objection to the amendment of Senator Drilon, as further amended by Senator Webb, and accepted by the Sponsor? [*Silence*] There being none, the amendment is hereby approved.

Any further individual amendment?

Senator Flavier. Mr. President.

The President. Senator Flavier is recognized.

FLAVIER AMENDMENT

Senator Flavier. Mr. President, on page 2, between lines 8 and 9, insert a new Section 3 which would read as follows:

SECTION 3. IMPLEMENTING RULES. - THE

SECRETARY OF THE DEPARTMENT OF JUSTICE, IN CONSULTATION WITH THE SECRETARY OF THE DEPARTMENT OF HEALTH, SHALL WITHIN THIRTY (30) DAYS FROM THE EFFECTIVITY OF THIS ACT PROMULGATE THE RULES TO IMPLEMENT ITS PROVISIONS.

The President. What does the Sponsor say?

Senator Maceda. I have no objection, Mr. President. I was wondering whether the Gentleman would also like to consult some private medical association, or would the Secretary of Health suffice?

Senator Flavier. That would enrich it, Mr. President, and I would have no objection. But the spirit is in line with the many points that were raised that have technical bearing encompassed by the participation of the Secretary of Justice.

Senator Maceda. We accept the amendment as proposed without further amendment, Mr. President.

The President. Is there any objection to this amendment? [*Silence*] There being none, the amendment is hereby approved.

Senator Flavier. Thank you, Mr. President.

Senator Webb. Mr. President.

The President. Senator Webb is recognized.

WEBB AMENDMENT

Senator Webb. Mr. President, for purposes of consistency, on page 2, line 4, may I amend the phrase with the following: persons already sentenced by judgment which has become final AND EXECUTORY who are waiting to undergo... et cetera.

Senator Maceda. We accept the amendment, Mr. President.

The President. Is there any objection to the Webb amendment? [*Silence*] There being none, the amendment is hereby approved.

MANIFESTATION OF SENATOR MACEDA (Senator Sotto as Coauthor of S. No. 436)

Senator Maceda. Mr. President, may I make of record that Senator Sotto is a coauthor of the measure.

The President. The Secretary is directed to enter that

manifestation in the *Record*.

Senator Macapagal. Mr. President.

The President. Senator Macapagal is recognized.

MACAPAGAL-HERRERA AMENDMENT

Senator Macapagal. Mr. President, this is an amendment coming from Senator Herrera and this Representation. Subject to style, to be inserted after the first paragraph of the committee amendment in Section 1, and I quote:

PURSUANT TO THIS, ALL PERSONNEL INVOLVED IN THE ADMINISTRATION OF LETHAL INJECTION SHALL BE TRAINED PRIOR TO THE PERFORMANCE OF SUCH TASK.

Mr. President, the justification for the proposed amendment is to reduce or eliminate the danger of inefficiently administering lethal injection which might lead to undue suffering of the convict.

Senator Maceda. May I know from the Proponent by whom she wants to train the personnel involved.

Senator Macapagal. This is subject to style, Mr. President. But since during the line of questioning, the Sponsor always referred to the Director of the Bureau of Corrections or some other executive decision-maker as to be the one in charge of deciding on these details, I suppose that in this particular case, that should also fall under the rule of leaving it to the discretion of the administrator.

Senator Mercado. Mr. President, before we act on this amendment, may I just ask the Proponent if there are people who are going to be trained in administering the lethal injection, and on whom will they practice this training?

Senator Macapagal. Mr. President, Senator Herrera is not here. But I would presume, for instance, that these are people who know how to apply an injection. There have been cases where injections are administered by people who do not know how to, and certainly, they do not need to inject with lethal content when they are doing their training. In fact, these details can be part of the implementing rules as suggested in Senator Flavier's amendment.

Senator Maceda. I have no objection, Mr. President. But would the Proponent limit the persons to be trained only to males?

Senator Macapagal. Mr. President, there is no reason to limit it to males because females can also execute the law.

Senator Maceda. With that clarification, I accept the amendment as is, Mr. President.

The President. Is there any objection to the Herrera-Macapagal amendment? [Silence] There being none, the same is hereby approved.

Senator Mercado. Mr. President, there being no other individual amendment, I move that we close the period of individual amendments.

The President. Is there any objection? [Silence] There being none, the period of individual amendments is hereby closed.

APPROVAL OF S. NO. 436 ON SECOND READING, AS AMENDED

Senator Mercado. Mr. President, I move that we vote on Senate Bill No. 436, as amended, on Second Reading.

The President. We shall now vote on the bill, as amended, on Second Reading.

As many as are in favor of the bill, as amended, please say *Aye*. [Several Senators: *Aye*] As many as are against, please say *Nay*. [Silence]

Senate Bill No. 436, as amended, is approved on Second Reading.

SUSPENSION OF THE SESSION

Senator Mercado. I move for the suspension of the session, Mr. President.

The President. The session is suspended, if there is no objection. [There was none.]

It was 6:29 p.m.

RESUMPTION OF THE SESSION

At 6:30 p.m., the session was resumed.

The President. The session is resumed. Senator Roco is recognized.

RECONSIDERATION OF APPROVAL OF S. NO. 436 ON SECOND READING

Senator Roco. Mr. President, may we ask for a reconsideration of the approval of Senate Bill No. 436 on Second Reading.

It has been called to our attention that under the terms of the bill, the people to be executed by lethal injection shall have been convicted of death by electrocution. And then, when one executes the final judgment, there may be some issue that can be raised by those who are subject to capital punishment.

I do not have the answers right now, Mr. President, but may we just reconsider the approval on Second Reading to study that legal issue. Otherwise, we may have convicts already facing death penalty but, because of a change, they will be able to go up to the Supreme Court on the basis of whether we can carry out an electrocution sentence by injection.

Senator Mercado. We have no objection, Mr. President, for the reconsideration of our approval on Second Reading of Senate Bill No. 436.

Senator Maceda. Mr. President, of course, I understand the point. But precisely, Section 2 was meant to address that problem in the sense that we are really amending the present law and fortunately, no executions have been carried out in a manner of speaking.

The only problem that may arise, and I already answered that there is that possibility, is, if in the decision of the Regional Trial Court itself, the judge was so meticulous as to have put "sentence to death by electrocution" or "sentence to death by electrocution or gas poisoning," as the case may be.

In the nature of things, I would suggest that we keep the approval on Second Reading, with the understanding that we will not call the bill for Third Reading until after the Gentleman has made a research. So that within a reasonable time if there is no reason to reconsider the same, then the approval on Second Reading stays.

Senator Roco. Mr. President.

The President. Senator Roco is recognized.

Senator Roco. There is really no harm in reconsidering it, Mr. President. It is not because I voted against the death penalty but these are serious legal issues.

Can we, by law, modify a judgment in a criminal proceed-

ing? Would that constitute double jeopardy? Will it mean that the Legislature can subsequently change the minds of the Judiciary as regards penalties?

Since criminal laws are essentially prospective, the issue of whether this is favorable or more grievous for the accused will enter the issue. Therefore, Mr. President, only because we cannot be present at all times in the Hall, there is no harm in reconsidering and opening it. Even the staff were concerned. I guess, it is to the interest, especially of those who favored death penalty, that these issues be addressed first; otherwise, we may have a law that will burst like a bubble.

Senator Drilon. Mr. President.

The President. What is the pleasure of Senator Drilon?

Senator Drilon. Mr. President, I am trying to appreciate the question raised by the Gentleman from Bicol.

The President. With the permission of the Gentlemen on the Floor, Senator Drilon may proceed.

Senator Drilon. Is it the fear of the Gentleman from Bicol that the bill, as presently worded, which we want to become a law, can be questioned on constitutional grounds? Is that the fear, Mr. President? I am trying to appreciate it.

Senator Roco. I have no fears, Mr. President. I am only saying that there are legitimate legal issues, and it will be to the interest of this Chamber to address those legal issues before acting further.

Senator Drilon. These legal issues were raised already during the period of interpellations, Mr. President, and the Sponsor has answered them. In fact, my impression of the bill is that it will only change the manner of execution. It will not change any penalty. It will just change the manner in which the death penalty will be carried out. And when the Regional Trial Court Judge, or assuming even the Supreme Court, would order the death penalty through electrocution, it was only because of the provision of the law. And we are amending now the law.

Senator Roco. If that legal interpretation is to be sustained, certainly, it will open the door to legal questions in the Supreme Court, Mr. President. I guess, just a little more time to look at the legal issues does not harm anyone. On the contrary, it may protect the integrity of the bill because, certainly, even as the Gentleman says that it will change only the mode of execution, every aspect of a criminal proceeding must be viewed in terms of whether it will be favorable or disadvantageous to the accused. That has legal effects.

Whether it will be questioned in courts or not will come to pass, but there is no harm now, Mr. President, in having a little time to reflect on the issue of "can a law that will modify the actual judgments, final and executory, be passed now?"

Senator Maceda. As I said earlier, I appreciate the point raised by the distinguished Gentleman from Bicol, the chairman of the Committee on Justice and Human Rights. But just the fact that he has raised it now, I am sure that some bright lawyers like him will raise the issue and, therefore, this will have to be decided eventually by the Supreme Court.

In the meantime, the advantage of having the law passed, even with that probability of question, is that the law will, at least, apply prospectively to those who will be convicted after the law is passed. But if on the basis of the issue that something might be raised, we defer legislation, certainly, as it had happened many times in the past, we would unnecessarily delay legislation just because a matter could be questioned or a provision of a law could be questioned in the Supreme Court.

Senator Roco. That is not the reasoning process, Mr. President. In fact, it was just called to my attention, and I am responding to legal issues raised by the Secretariat which I consider legitimate. And whatever our action is, we still have to cross the issue: Can a law be passed? As to those who will be convicted later, there is no question. But for the 100 convicts—I guess there are 100 or so convicts waiting for execution—what then will be the effect of this law?

If the distinguished Gentleman wishes to explain it to me now, I am easy to convince and I am ready to listen, Mr. President.

Senator Maceda. Mr. President, the effect will be that if the Supreme Court, upon question by a lawyer of these 100 convicts, would sustain their position, then the executive department will have to build an electric chair just for that group of people. That would be the practical effect. But, not anticipating that, if the Supreme Court sustains that the law changing the mode of execution is valid, then no problem is created. At the same time, what is happening now is, while the bill is pending, the Bureau of Corrections is not moving in any way to set up the electric chair or a gas chamber, expecting that this lethal injection bill would be approved.

Senator Roco. I guess the problem then is inaction of the prison authorities. But, Mr. President, in the first instance that the Gentleman pointed out, if the Supreme Court sustains the issue, what then? If the issue is raised by the convicted felon on the basis of exposure to double jeopardy, shall these persons convicted of heinous crimes be then entitled to release for having

been exposed to double jeopardy? Would that be possible? If that is possible for those who keep crying against the heinous crimes, would it not be better therefore now to examine the issue so that that possibility will be totally precluded? Maybe words can be put into the bill that will preclude that possibility.

Senator Maceda. With due respect to the distinguished practicing lawyer, I really cannot envision how the question of double jeopardy would come into the picture.

Senator Roco. Mr. President, harsher penalties, when put upon a criminal, can raise the problem of exposure. In other words, if I am a convicted felon, I can say that this exposes me to harsher penalties and maybe I deserve other protections.

I have not even thought about it, Mr. President. All I am saying is that if there are legal issues that are raised now and there is no harm in reopening it, why not at least look at the legal issues.

Senator Maceda. Mr. President, I am just human and I am not in any sense removing from my good friend, the Gentleman from Bicol, the right to ask for a reopening. It is just that the subject matter has been on the Floor for months. We went through several periods of interpellation; we waited for the distinguished Gentleman from Bohol; and there was ample opportunity for everybody to raise any question. In fact, this question was raised by Senator Alvarez. I am really hesitant in a procedure where after the period of debate and we have approved a bill on Second Reading, and just because somebody comes into the room and says, "Mr. Senator, you may have overlooked this and we ask for a reopening."

Of course my immediate reaction is, "Why this late? Why now?" Why do we have to go through this aggravation of having to reopen it and wait again when this bill has been on the Floor for several months already?

SUSPENSION OF THE SESSION

Senator Roco. It is the last thing in my mind, Mr. President, to aggravate my good friend. May I request for a suspension of the session.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 6:45 p.m.

RESUMPTION OF THE SESSION

At 6:49 p.m., the session was resumed.

The President. The session is resumed.

SUSPENSION OF CONSIDERATION OF S. NO. 436

Senator Mercado. Mr. President, I move that we suspend consideration of Senate Bill No. 436.

The President. Is there a formal motion on the part of Senator Roco? Is he withdrawing it?

Senator Roco. Mr. President, we did ask for a reconsideration, but the good Sponsor said that maybe we can adopt his proposed compromise procedure so that we can get this approved on Second Reading but hold in abeyance on Third Reading until the issue is discussed by the legal minds.

I understand Senator Enrile feels the same importance to the legal issue. Maybe, at some point in time, we can even look at a compromise solution of giving the felon, the convicted felon an alternative. He can choose whether to be executed by electrocution or by lethal injection. Maybe those solutions can come up later.

If we hold it on the understanding that we can reopen, because after the next meeting we normally will not be able to reopen, with the unanimous consent of the Senate, we will gladly oblige the Gentleman from Manila, Mr. President.

Senator Mercado. I reiterate my motion, Mr. President.

The President. Is there any objection to the motion? [*Silence*] There being none, consideration of Senate Bill No. 436 is hereby suspended.

Senator Webb. Mr. President.

The President. Senator Webb is recognized.

MANIFESTATIONS OF SENATOR WEBB (As Coauthor of P. S. Res. No. 282 and Referral of P.S. Res. No. 272 to the Committee on Games and Amusement as Secondary Committee)

Senator Webb. I would just like to make two manifestations, Mr. President. One is, Senator Angara has approached and asked me if I could be a coauthor of Senate Resolution No. 282, urging an inquiry into the status of the implementation of Republic Act No. 7875, otherwise known as the "National Health Insurance Act of 1995."

The other, Mr. President, is to manifest, if it is possible,

RECORD OF THE SENATE

TUESDAY, MARCH 5, 1996

OPENING OF THE SESSION

At 4:35 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 64th session of the Senate in the First Regular Session of the Tenth Congress is hereby called to order.

We shall all rise and be led in prayer by Senator Leticia Ramos-Shahani.

Everybody rose for the opening prayer.

PRAYER

Senator Shahani.

Our Most Gracious Heavenly Father,

We thank Thee for another day of commitment and vision to do our work in order to be of greater service to Thee.

Help us to undertake our tasks with joy and rejoicing knowing that You are our guide and light.

All this we ask in Jesus' Name.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary.

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Anna Dominique M.L. Coseteng .	Present
Senator Franklin M. Drilon	Present
Senator Juan Ponce Enrile	Present
Senator Marcelo B. Fernan	Present
Senator Juan M. Flavier	Present
Senator Ernesto F. Herrera	Present
Senator Gregorio B. Honasan	Present
Senator Gloria M. Macapagal	Present*
Senator Ernesto M. Maceda	Absent ***
Senator Ramon B. Magsaysay Jr.	**
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present
Senator Sergio R. Osmeña III	Present

* Arrived after the roll call

** On official mission

*** On account of illness

Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Alberto G. Romulo	Present
Senator Miriam Defensor-Santiago	Present
Senator Leticia R. Shahani	Present
Senator Vicente C. Sotto III	Present
Senator Francisco S. Tatad	Present
Senator Freddie N. Webb	**
The President	Present

The President. With 20 Senators present, the Chair declares the presence of a quorum.

THE JOURNAL

Senator Romulo. Mr. President, I move that we dispense with the reading of the *Journal* of the previous session and consider the same as approved.

The President. Is there any objection? [*Silence*] There being none, the reading of the *Journal* of the previous session is hereby dispensed with and the same is considered approved.

The Secretary will now proceed with the reading of the Order of Business.

REFERENCE OF BUSINESS

MESSAGE OF THE PRESIDENT OF THE PHILIPPINES

The Secretary.

19 February 1996

The Honorable Members of the Senate:

I have the honor to forward herewith one (1) certified true copy and twenty-four (24) additional copies of the UN Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction that was signed by the Philippines along with 124 other member-states in Paris, France on 13 January 1993.

The Convention is a landmark agreement that is a product of nearly 26 years of negotiations and is considered to be a major break-through in disarmament. It offers enhanced worldwide security because it provides a complete ban on a whole class of weapons of mass destruction.

The Philippines is committed to the aims of the Convention because it creates confidence building and greater trust among countries that are essential elements

The President. Is there any objection to said motion? [Silence] There being none, consideration of this bill is hereby suspended.

Senator Romulo. We have an Additional Reference of Business, Mr. President. May I ask the Secretary to read it.

The President. The Secretary will read the Additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

COMMITTEE REPORT

The Secretary. Committee Report No. 57, submitted by the Committee on Rules on Senate Concurrent Resolution No. 4, introduced by Senator Romulo, entitled

CONCURRENT RESOLUTION AMENDING CONCURRENT RESOLUTION NO. 3 PROVIDING FOR THE LEGISLATIVE CALENDAR FOR THE FIRST REGULAR SESSION OF THE TENTH CONGRESS OF THE PHILIPPINES,

recommending its adoption without amendments.

Sponsor: Senator Romulo

The President. To the Calendar for Ordinary Business.

SPECIAL ORDERS

Senator Romulo. Mr. President, I move that we transfer to the Calendar for Special Orders Senate Bill No. 1400, entitled

AN ACT INCREASING THE NUMBER OF JUSTICES IN THE COURT OF APPEALS FROM FIFTY-ONE (51) TO SIXTY (60) AND THE NUMBER OF DIVISIONS THEREOF, FROM SEVENTEEN (17) TO TWENTY (20) AMENDING FOR THE PURPOSE BATAS

PAMBANSA 129, AS AMENDED, OTHERWISE KNOWN AS "THE JUDICIARY REORGANIZATION ACT OF 1980," AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR, AND FOR OTHER PURPOSES.

The President. Is there any objection to this motion? [Silence] There being none, Senate Bill No. 1400 is hereby transferred to the Calendar for Special Orders.

MOTION OF SENATOR ROMULO (Senator Flavier as Additional Member of Senate Panel on S. No. 436)

Senator Romulo. May I ask that Senator Flavier be made an additional member of the Senate panel on the Bicameral Conference Committee on Senate Bill No. 436, the Lethal Injection Bill.

The President. Is there any objection? [Silence] There being none, said motion is hereby approved.

Senator Romulo. May I also remind our Colleagues, particularly the Chairmen, that on Thursdays, we will take up the local bills, the franchise bills, and the treaties and international agreements, Mr. President.

Tomorrow, we shall resume consideration of the Irrigation Crisis Act and the other bills that are in the Calendar for Special Orders.

SUSPENSION OF THE SESSION

So with that, Mr. President, I move that we suspend the session until ten o'clock tomorrow morning.

The President. Is there any objection to this motion? [Silence] There being none, the session is hereby suspended until ten o'clock tomorrow morning.

It was 6:48 p.m.

RECORD OF THE SENATE

MONDAY, FEBRUARY 5, 1996

OPENING OF THE SESSION

At 4:39 p.m., the Presiding Officer, Hon. Vicente C. Sotto III, called the session to order.

The Presiding Officer [Senator Sotto]. The 51st session of the Senate in the First Regular Session of the Tenth Congress of the Philippines is hereby called to order.

Let us all stand for the opening prayer to be led by the Hon. Senate President Neptali A. Gonzales. Thereafter, we shall be led in the singing of the Philippine National Anthem by the Bureau of Customs Choir.

Everybody rose for the opening prayer.

PRAYER

Senator Gonzales.

God of our fathers,

As our nation and people are once again faced with economic and social crisis;

As cancerous partisan politics is once again eating away our hallowed institutions of democracy;

As our Senate is once again confronted with crucial issues needing critical decisions;

Help each one of us Senators take seriously our role as representatives of our people;

Broaden our sense of justice for those who are deprived and forgotten, the homeless and the hungry, the persecuted and the oppressed;

Make us the spokesmen and spokeswomen of those who have no voice, the weak, the poor, the elderly, the neglected and the children of our nation. Give each of us the virtue and the integrity to perform what is good and best of our people.

May we faithfully discharge our solemn duties in the name of truth, of peace, and of righteousness, remembering always that the greatest among us was the Servant of all.

Amen.

NATIONAL ANTHEM

After the opening prayer, everybody remained standing for the singing of the national anthem. Another song entitled Kagalingan was rendered by the Bureau of Customs Choir.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a one-minute suspension of the session.

The Presiding Officer [Senator Sotto]. The session is suspended for one minute, if there is no objection. [There was none.]

It was 4:46 p.m.

RESUMPTION OF THE SESSION

At 4:47 p.m., the session was resumed with the Senate President, Neptali A. Gonzales, presiding.

The President. The session is resumed. The Secretary will please call the roll.

ROLL CALL

The Secretary.

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Anna Dominique M. L. Coseteng	Present
Senator Franklin M. Drilon	Present
Senator Juan Ponce Enrile	Present
Senator Marcelo B. Fernan	Present
Senator Juan M. Flavier	Present
Senator Ernesto F. Herrera	**
Senator Gregorio B. Honasan	Present
Senator Gloria M. Macapagal	Present
Senator Ernesto M. Maceda	Present
Senator Ramon B. Magsaysay Jr.	Present
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present*
Senator Sergio R. Osmeña III	Present
Senator Ramon B. Revilla	Absent
Senator Raul S. Roco	Present
Senator Alberto G. Romulo	Present
Senator Miriam D. Santiago	Present*

* Arrived after the roll call

** On official mission

Senator Enrile	Senator Roco
Senator Fernan	Senator Romulo
Senator Flavies	Senator Santiago
Senator Honasan	Senator Shahani
Senator Macapagal	Senator Sotto III
Senator Maceda	Senator Tatad
Senator Magsaysay	Senator Webb
Senator Mercado	The President
Senator Osmeña III	

NO - 0

ABSTENTION - 0

RESULT OF THE VOTING

The President. With 21 affirmative votes, no negative vote, and no abstention, Senate Bill No. 1081 is approved on Third Reading.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a suspension of the session.

The President. The session is suspended, if there is no objection. [*There was none.*]

It was 4:56 p.m.

RESUMPTION OF THE SESSION

At 5:18 p.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President, I move that we vote on Third Reading on Senate Bill No. 436.

Senator Maceda. Mr. President.

The President. Before we do that, may the Chair know the pleasure of Senator Maceda?

Senator Maceda. Mr. President, may I make a manifestation before we call the bill for Third Reading.

Senator Romulo. I withdraw my earlier motion, Mr. President.

MANIFESTATION OF SENATOR MACEDA
(Prospective Application of S. No. 436)

Senator Maceda. After consultation with Senators Roco and Webb, and upon consideration of a study made by the

director of Legislative Services on the prospective application of this law, we would like to make it of record that as far as the bill that is proposed to be passed on Third Reading is concerned, this bill is going to be applied prospectively and, therefore, the existing law will apply to those who have been convicted under the existing law.

As far as the style of the wording of the bill is concerned, that will be consequently refined in the conference committee procedures, Mr. President.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

BILL ON THIRD READING
S. No. 436 - Death by Lethal Injection

Senator Romulo. Mr. President, I move that we vote on Third Reading on Senate Bill No. 436. Printed copies of the bill were distributed to all the members of the Senate on January 31, 1996.

The President. Voting on Third Reading on Senate Bill No. 436 is now in order.

The Secretary will please read only the title of the bill, if there is no objection. [*There was none.*]

The Secretary. Senate Bill No. 436, entitled

AN ACT DESIGNATING DEATH BY LETHAL INJECTION AS THE METHOD OF CARRYING OUT CAPITAL PUNISHMENT, AMENDING FOR THIS PURPOSE ARTICLE 81 OF THE REVISED PENAL CODE AS AMENDED BY SECTION 24 OF REPUBLIC ACT 7659

The President. The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

YES - 19

Senator Alvarez	Senator Honasan
Senator Angara	Senator Macapagal*
Senator Coseteng	Senator Maceda
Senator Drilon	Senator Magsaysay
Senator Fernan	Senator Mercado
Senator Flavies	Senator Osmeña

* With explanation of vote

Senator Roco
 Senator Romulo
 Senator Santiago*
 Senator Shahani

Senator Sotto III
 Senator Webb
 The President

NO - 2

Senator Enrile*
 Senator Tatad*

ABSTENTION - 0

RESULT OF THE VOTING

The President. With 19 affirmative votes, two negative votes, and no abstention, Senate Bill No. 436 is approved on Third Reading.

EXPLANATION OF VOTE OF SENATOR ENRILE

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized.

Senator Enrile. Mr. President, when the death penalty was considered while I was a member of the House, I voted against it. In this particular instance, true to my faith and true to my position then, I vote against this measure.

EXPLANATION OF VOTE OF SENATOR SANTIAGO

Senator Santiago. Mr. President.

The President. Senator Santiago is recognized.

Senator Santiago. I vote *Yes* on this measure with the qualification that it should not be taken to prejudice my position against the capital penalty per se should the proper occasion later arise.

EXPLANATION OF VOTE OF SENATOR TATAD

Senator Tatad. Mr. President.

The President. Senator Tatad is recognized.

Senator Tatad. Mr. President, may I briefly explain my vote.

When the Senate during the last Congress debated the bill on capital punishment, I was one of those who firmly opposed the reimposition of capital sentence. My contention then was that capital punishment was not going to deter the commission

*With explanation of vote

of heinous crimes. It is not trying to bring down criminality, and I believe my contention has been proved right. Capital punishment has been reinstated in our statutes, but the crime wave is there and the government has been unable to address this. That is why, today we are faced with all sorts of harebrained proposals.

Consistent with that position, Mr. President, I vote against this particular measure. Thank you very much.

Senator Macapagal. Mr. President.

The President. Senator Macapagal is recognized.

Senator Macapagal. Mr. President, may I know how my vote was counted?

The President. It is a *Yes* vote that was recorded.

EXPLANATION OF VOTE OF SENATOR MACAPAGAL

Senator Macapagal. Mr. President, I would like to clarify that I am voting *Yes* only because the lethal injection seems to be the more humane method than the other methods that were practiced in the past. However, I continue to be against the death penalty.

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

CONFERENCE COMMITTEE ON S. NO. 436 (Death by Lethal Injection)

Senator Romulo. Mr. President, for the Senate panel on the Bicameral Conference Committee on Senate Bill No. 436, I ask that the following be named: Senators Maceda, Roco and Herrera.

The President. Is there any objection to this motion? [*Silence*] There being none, the aforesaid Senators are hereby named to the Senate panel in the Bicameral Conference Committee vis-a-vis Senate Bill No. 436.

BILL ON SECOND READING S. No. 78—Amending Art. 1155 of RA 386, the Civil Code

Senator Romulo. Mr. President, I move that we consider Senate Bill No. 78 as reported out under Committee Report No. 26.

The President. Consideration of Senate Bill No. 78 is now in order.

Table of Contents

PLENARY SESSIONS

Session No.		Page
66	Monday, March 11, 1996	1
67	Tuesday, March 12, 1996	19
68	Wednesday & Thursday, March 13 & 14, 1996	43
69	Monday & Tuesday, March 18 & 19 (am), 1996	99
70	Tuesday, March 19 (pm), 1996	131
71	Wednesday & Thursday, March 20 & 21, 1996	165
72	Monday & Tuesday, March 25 & 26 (am), 1996	235
73	Tuesday, March 26 (pm), 1996	299
74	Wednesday & Thursday, March 27 & 28, 1996	333
75	Monday, Tuesday & Tuesday, April 29, 30 & May 7, 1996	407
76	Wednesday & Thursday, May 8 & 9, 1996	479
77	Monday, May 13, 1996	507
78	Tuesday, May 14, 1996	527
79	Wednesday & Thursday, May 15 & 16, 1996	553
80	Monday, May 20, 1996	607
81	Tuesday, May 21, 1996	641
82	Wednesday, Thursday & Monday, May 22, 23 & 27 (am), 1996	657
83	Monday & Tuesday, May 27 (pm) & 28 (am), 1996	697
84	Tuesday & Wednesday, May 28 (pm) & 29 (am), 1996	741
85	Wednesday, Thursday, Friday & Monday, May 29, 30, 31 & June 3 (am), 1996	757
86	Monday & Tuesday, June 3 (pm) & 4 (am), 1996	931
87	Tuesday & Wednesday, June 4 (pm) & 5 (am), 1996	971
88	Wednesday & Thursday, June 5 (pm) & 6, 1996	1007

RECORD OF THE SENATE

TUESDAY, MARCH 12, 1996

OPENING OF THE SESSION

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

The President. The 67th session of the Senate in the First Regular Session of the Tenth Congress of the Philippines is hereby called to order.

We shall be led in prayer by Sen. Heherson T. Alvarez.

Everybody rose for the opening prayer.

PRAYER

Senator Alvarez.

Dear Lord,

We are going to undergo another day of inquiry, exchange and introspection into deep-seated problems of our people.

Again, give us the clarity of mind, the commitment and the wisdom to deepen the discharge of our duties. Make us a Chamber that is fully committed in unlocking the problems of the nation.

And on this day, grant that we should grow wiser, ever wiser, and ever more able to solve the problem of national development.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary.

- Senator Heherson T. Alvarez Present
Senator Edgardo J. Angara Present
Senator Anna Dominique M. L. Coseteng Present
Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present
Senator Marcelo B. Fernan Present
Senator Juan M. Flavie Present
Senator Ernesto F. Herrera Present*
Senator Gregorio B. Honasan Present
Senator Gloria M. Macapagal Present

- Senator Ernesto M. Maceda Absent **
Senator Ramon B. Magsaysay Jr. Present
Senator Orlando S. Mercado Present
Senator Blas F. Ople Present*
Senator Sergio R. Osmeña III Present
Senator Ramon B. Revilla Present
Senator Raul S. Roco Present
Senator Alberto G. Romulo Present
Senator Miriam Defensor-Santiago Present*
Senator Leticia R. Shahani Present
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad Present
Senator Freddie N. Webb Present
The President Present

The President. With 20 Senators present, the Chair declares the presence of a quorum.

THE JOURNAL

Senator Romulo. Mr. President, I move that we dispense with the reading of the Journal of the previous session and consider the same as approved.

The President. Is there any objection? [Silence] There being none, the reading of the Journal of the previous session is hereby dispensed with and the same is considered approved.

The Secretary will now proceed with the reading of the Order of Business.

REFERENCE OF BUSINESS

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

The Secretary.

March 6, 1996

The Honorable NEPTALI A. GONZALES President of the Senate Manila

Mr. President:

I have been directed to inform the Senate that the House of Representatives approved on March 5, 1996 the Conference Committee Report on the disagreeing provisions of House Bill No. 6147, entitled

*On official mission
**On account of illness

AN ACT DESIGNATING DEATH BY LETHAL INJECTION AS THE METHOD OF CARRYING OUT CAPITAL PUNISHMENT, AMENDING FOR THE PURPOSE SECTION 24 OF REPUBLIC ACT NO. 7659 WHICH AMENDED ARTICLE 81 OF THE REVISED PENAL CODE

and Senate Bill No. 436, entitled

AN ACT DESIGNATING DEATH BY LETHAL INJECTION AS THE METHOD OF CARRYING OUT CAPITAL PUNISHMENT, AMENDING FOR THE PURPOSE ARTICLE 81 OF THE REVISED PENAL CODE, AS AMENDED BY SECTION 24 OF REPUBLIC ACT NO. 7659.

Very truly yours,

(Sgd.) CAMILO L. SABIO
Secretary General

The President. To the Archives.

BILLS ON FIRST READING

The President. Senate Bill No. 1444, entitled

AN ACT FIXING THE MAXIMUM HEIGHT AND NUMBER OF STOREYS OF BUILDINGS AND STRUCTURES, AND FOR OTHER PURPOSES

Introduced by Senator Tatad.

The President. Referred to the Committees on Urban Planning, Housing and Resettlement; and Public Works.

The Secretary. Senate Bill No. 1445, entitled

AN ACT GRANTING SPECIAL PROTECTION AND ADDITIONAL BENEFITS TO MEDIA PERSONS, AND FOR OTHER PURPOSES

Introduced by Senator Mercado.

The President. Referred to the Committee on Public Information and Mass Media.

The Secretary. Senate Bill No. 1446, entitled

AN ACT CONVERTING THE BICOL REGIONAL TRAINING AND TEACHING HOSPITAL INTO BICOL MEDICAL CENTER, DEFINING ITS

FUNCTIONS, RESPONSIBILITIES, POWERS AND AUTHORITY, AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Roco.

The President. Referred to the Committee on Rules.

The Secretary. Senate Bill No. 1447, entitled

AN ACT TO ENHANCE THE ACADEMIC FREEDOM AND INSTITUTIONAL AUTONOMY OF THE UNIVERSITY OF THE PHILIPPINES

Introduced by Senator Roco.

The President. Referred to the Committees on Education, Arts and Culture; Ways and Means; and Finance.

The Secretary. Senate Bill No. 1448, entitled

AN ACT FURTHER PROTECTING INTELLECTUAL PROPERTY RIGHTS, AND FOR OTHER PURPOSES

Introduced by Senator Romulo.

The President. Referred to the Committee on Trade and Commerce.

The Secretary. Senate Bill No. 1449, entitled

AN ACT REQUIRING THE PREPARATION AND ISSUANCE OF THE CERTIFICATE OF VOTES AS REPLICA OF THE ELECTION RETURNS AND PRESCRIBING A REVISED C.E. FORM NO. 13, AMENDING FOR THAT PURPOSE SECTION 215 OF THE OMNIBUS ELECTION CODE, AS AMENDED BY REPUBLIC ACT NO. 6646, SECTION 16

Introduced by Senator Santiago.

The President. Referred to the Committee on Constitutional Amendments, Revision of Codes and Laws.

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 340, entitled

RESOLUTION DIRECTING THE APPROPRIATE

RECORD OF THE SENATE

TUESDAY, MARCH 5, 1996

OPENING OF THE SESSION

At 4:35 p.m., the President of the Senate, Hon. Neptali A. Gonzales, called the session to order.

The President. The 64th session of the Senate in the First Regular Session of the Tenth Congress is hereby called to order.

We shall all rise and be led in prayer by Senator Leticia Ramos-Shahani.

Everybody rose for the opening prayer.

PRAYER

Senator Shahani.

Our Most Gracious Heavenly Father,

We thank Thee for another day of commitment and vision to do our work in order to be of greater service to Thee.

Help us to undertake our tasks with joy and rejoicing knowing that You are our guide and light.

All this we ask in Jesus' Name.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary.

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Anna Dominique M.L. Coseteng .	Present
Senator Franklin M. Drilon	Present
Senator Juan Ponce Enrile	Present
Senator Marcelo B. Fernan	Present
Senator Juan M. Flavier	Present
Senator Ernesto F. Herrera	Present
Senator Gregorio B. Honasan	Present
Senator Gloria M. Macapagal	Present*
Senator Ernesto M. Maceda	Absent ***
Senator Ramon B. Magsaysay Jr.	**
Senator Orlando S. Mercado	Present
Senator Blas F. Ople	Present
Senator Sergio R. Osmeña III	Present

* Arrived after the roll call

** On official mission

*** On account of illness

Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Alberto G. Romulo	Present
Senator Miriam Defensor-Santiago	Present
Senator Leticia R. Shahani	Present
Senator Vicente C. Sotto III	Present
Senator Francisco S. Tatad	Present
Senator Freddie N. Webb	**
The President	Present

The President. With 20 Senators present, the Chair declares the presence of a quorum.

THE JOURNAL

Senator Romulo. Mr. President, I move that we dispense with the reading of the *Journal* of the previous session and consider the same as approved.

The President. Is there any objection? [*Silence*] There being none, the reading of the *Journal* of the previous session is hereby dispensed with and the same is considered approved.

The Secretary will now proceed with the reading of the Order of Business.

REFERENCE OF BUSINESS

MESSAGE OF THE PRESIDENT OF THE PHILIPPINES

The Secretary.

19 February 1996

The Honorable Members of the Senate:

I have the honor to forward herewith one (1) certified true copy and twenty-four (24) additional copies of the UN Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction that was signed by the Philippines along with 124 other member-states in Paris, France on 13 January 1993.

The Convention is a landmark agreement that is a product of nearly 26 years of negotiations and is considered to be a major break-through in disarmament. It offers enhanced worldwide security because it provides a complete ban on a whole class of weapons of mass destruction.

The Philippines is committed to the aims of the Convention because it creates confidence building and greater trust among countries that are essential elements

President, it creates a precedent which is not so healthy for the Senate.

Thank you very much.

The President. The Chair will answer the parliamentary inquiry.

When Sen. Juan Ponce Enrile sponsored his Proposed Senate Resolution No. 22, calling for a Question Hour on the matter of the acquisition of security vehicles for the APEC meeting, he repeatedly stated that Secretary Navarro and even General Abadia had expressed to him their willingness to appear and answer questions on the same matter covered by Proposed Senate Resolution No. 22.

After the Senate has approved Proposed Senate Resolution No. 22, the Chair received a letter from Secretary Navarro of the DTI requesting permission to appear before the Senate in connection with the same subject matter covered by Proposed Senate Resolution No. 22. On the request itself is a marginal note which is the approval of the President of the Philippines in consonance with the provisions of the Constitution pertaining to Question Hours.

The Senate President approved the request to appear before the Senate. And the Senate President finds no need for the matter to be referred back to the Senate in accordance with the last paragraph of Rule XLVI, Section 124, the last paragraph of which says:

When a Member of the Cabinet desires to be heard by the Senate on any matter pertaining to his department which is pending consideration in the Senate, a request to that effect shall be sent to the President of the Senate for his approval.

There is nothing here that suggests that prior approval of the Senate itself is further required. It has been covered already by a proposed Senate resolution wherein the Sponsor of the same has said that they have expressed willingness to be invited and to appear before the Senate on the same subject matter already covered by the proposed Senate resolution; then we feel that no rules have been violated and that his appearance is in order.

Senator Tatad. Mr. President, with due respect. We believe that if there was any proposal coming from the original Proponent to call in an additional Cabinet member aside from the Secretary of Finance, he could have been so named in the formal Resolution. And even in the Order of Business that appeared yesterday, his name could have been included, but he was not.

Without, in any way, suggesting that the Office of the Senate President does not have enough powers, I believe that the right of any officer to appear on the Floor of the Senate, anyone other than a Senator to appear on the Floor of the Senate, should be by leave of the Senate.

The President. If that were so, then probably the necessary amendment to this rule ought to be made.

Senator Tatad. I believe, Mr. President, at the right time, we should look at this rule again, because to me, it is incomplete.

The President. If it is incomplete, then no rule has been violated, because the Senate President acted in accordance with the Rules.

Senator Tatad. Thank you very much, Mr. President.

Senator Romulo. Mr. President, may I just supplement the statement made by the Chair.

Mr. President, the last paragraph, as already indicated by the Chair, should be read in conjunction with the first paragraph where there is a resolution which has been adopted by the Senate. Therefore, when a member of the Cabinet desires to be heard on any matter pertaining to his department which is pending consideration in the Senate—and it would be pending consideration precisely because this is the subject matter of the resolution—then this last paragraph applies.

If there was no pending resolution, perhaps, there should have been a resolution, or at the very least, when it was taken up on the Floor, there should have been a motion.

At any rate, Mr. President, I think the procedure that was followed yesterday was perfectly in order. But, of course, when we review the Rules and submit the rules governing Question Hour, then we should certainly consider the point raised by our distinguished Colleague from Quezon City and Catanduanes.

CONFERENCE COMMITTEE REPORT ON
S. NO. 436/H. NO. 6147
(Death by Lethal Injection)

Mr. President, I ask that we now consider the Bicameral Conference Committee Report on the disagreeing provisions of Senate Bill No. 436 and House Bill No. 6147, entitled "An Act Designating Death by Lethal Injection as the Method of Carrying Out Capital Punishment, Amending for the Purpose Article 81 of the Revised Penal Code, as Amended by Section 24 of RA 7659."

Mr. President, this report has been signed by all the members of the House panel and three of the four members of the Senate panel—two of them definitely voted in favor of this committee report.

May I ask, Mr. President, that the Chairman of the Senate panel, the distinguished Gentleman from the Bicol region and Bohol, Senator Roco, be recognized.

The President. Senator Roco is recognized.

Senator Roco. Thank you, Mr. President.

I am only an Acting Chairman here, Mr. President. I was performing a duty for our Colleague who is not present. As the Chamber knows, I voted against the capital punishment. So, in the performance of this duty, I am just performing a duty for the Chamber and not necessarily endorsing the idea of capital punishment.

For the Conference Committee Report, the conference committee agreed fundamentally to use the Senate version. The first paragraph of Section 1 of the Senate version was adopted as the first three paragraphs of the reconciled version, while the second paragraph of the House version was adopted as the fourth paragraph in the reconciled version thereof.

The conferees had only one point of disagreement, and this revolved around the words "later" or "earlier."

As the Chamber will recall, in the Senate version, it stressed that the death sentence shall be carried out not later than one year. So that it was the intention of our Chamber, Mr. President, to have the implementation of the execution by lethal injection within one year from the time the judgment became final and executory.

The House version had the words "not earlier" which, therefore, granted a more liberal treatment to the prisoner. The compromise that we entered into, after I cleared this with Senator Herrera, the distinguished Gentleman from Cebu and Bohol, was to adopt the term "earlier" so that it reads: "The death sentence shall be carried out not earlier than one year..." or the House version, and then we inserted the following provision, "nor later than eighteen (18) months after the judgment has become final and executory."

So instead of the execution within one year, we gave the next six months after the one year liberality period that the House was granting. Otherwise, the rest of the provisions came from the Senate version, and it read: "Without prejudice to the exercise by the President of his executive clemency powers at all times."

Section 2, Mr. President, of the Senate version was adopted as Section 2 of the reconciled version; Section 3 came from the House version; Sections 4 and 5 came from the Senate version; and the title—I am not so sure—I think also came from the Senate version.

The Committee is pleased to submit this report, Mr. President, and seeks the consent and approval of our Colleagues in this Chamber.

The President. The Majority Leader is recognized.

Senator Romulo. Mr. President, may I ask that the following gentlemen be recognized to clarify some points: Senator Herrera and then Senator Drilon.

The President. Senator Herrera is recognized.

Senator Herrera. I would just like to put into the *Record*, Mr. President, that I registered an abstention because I would like to stick to the original provision of the bill as provided in the Senate version.

The Acting Chairman consulted me; he called me up last night, but before that, I was informed that Congressman Daza was in favor of our version. In my discussion with the Acting Chairman, he told me that our view is the minority view and, therefore, even if we had insisted, just the same they will not adopt the provision of the Senate version.

So, what I did was to ask our Acting Chairman to negotiate for a lower or a reduced period because the House, I understand from the Chairman, was insisting for at least two years.

Senator Roco. No, Mr. President. They were willing to go and have another ceiling but not beyond two years—not earlier than one year, but not later than two years. So, we have one year to execute the death sentence.

When I discussed this matter with the Gentleman from Cebu and Bohol, we therefore suggested that it be made six months.

Senator Herrera. So, that is the background, Mr. President. But just the same, I abstained to underscore my sentiment on the particular provision of this bill. I feel very strongly as a very strong advocate of death penalty, that there should be no delay in the execution of the death sentence.

Thank you, Mr. President.

Senator Roco. Just to complete the record, Mr. President. We confirmed that in the panel of six, the deputy Speaker was

then dissenting in terms of the version, but he was, in fact, supportive of the position of Senator Herrera. But we have to yield to the majority.

Senator Drilon. Mr. President.

The President. Senator Drilon is recognized.

Senator Drilon. Will my friend, the Gentleman from Bicol, yield for a few questions for clarification, Mr. President?

Senator Roco. By all means, Mr. President, we will be happy to clarify.

Senator Drilon. Mr. President, I do recall that before we voted on this Senate version on Third Reading and after the printed copies of the Senate version were distributed in the Chamber, a question was raised by the Gentleman from Bicol on the applicability of changing the mode of executing the death penalty from electrocution or gas poisoning to lethal injection, insofar as it concerned those who were already sentenced to electrocution or gas poisoning.

I do not recall anymore how this question was disposed. But if my memory serves me right, the Senate version was, in fact, amended to reflect the point raised by the Gentleman from Bicol. I now notice that in Section 2, we are making this proposed law applicable, even to those who were already sentenced by final judgment to undergo death penalty by electrocution or gas poisoning.

In other words, we are changing and modifying the manner in which the death penalty will be executed which was the point raised and objected to by the Gentleman from Bicol.

My question, Mr. President, is: May I know what transpired in the conference committee which prompted our Acting Chairman to agree to Section 2?

Senator Roco. The Gentleman will note, Mr. President, that in our joint explanation I stressed that Section 2 of the Senate version was adopted as Section 2 of the reconciled version.

In fact, I raised it and put on record in the conference committee my own concerns. What happened was, after we voted and after I raised it at the instance of the lawyers in the Secretariat, the Chamber awaited a legal opinion which was given by the Secretary of Justice. When the Secretary of Justice gave a legal opinion that it could not be seen under existing jurisprudence as an *ex post facto* law, the Chairman then, the one who was sponsoring, Senator Maceda, said "discuss it."

He stated on the Floor that if there are still legal problems, we can take it up in the conference committee. I was looking precisely for the option on the part of the convicted felon, apparently though, what was finally acted on is exactly what is there in Section 2. So I lost the option given to the convicted felon.

We then discussed it at the conference committee, and it was the consensus that whichever way we go, some of those convicted will raise the legal issue.

Director Vinarao of the Bureau of Corrections also pointed out that most of the judgment are pending final review by the Supreme Court. So the issue now is not only as regards *ex post facto* law. The issue becomes: Can we pass a law that will modify a judgment?

As far as the terms of Section 2, as approved by the Chamber, are concerned, it is exactly as we approved it finally on Third Reading. So there is nothing modified there. As far as the legal issues are concerned, there is in my mind genuine issue about *ex post facto* law and we cannot prevent it.

We tried several combinations of words but we could not get around avoiding altogether the possibility that one of the convicted felons awaiting capital punishment will raise it in the Supreme Court. So we allowed it to go at that. That is why Section 2 was in fact untouched by the conference committee; the House just yielded to our version as it is.

Senator Drilon. So that under this Conference Committee Report, and under our own version of the law, we rely on the theory that a law can modify the manner of executing the sentence after judgment.

Senator Roco. The theory will be two-pronged, Mr. President. First, it is not an *ex post facto* law because the penalty is more humane. This is the theory of the Secretary of Justice. And it could be shown, historically and scientifically, according to the Secretary of Justice, that it is more beneficial to the one who is convicted.

Senator Drilon. That was our theory when we were debating on this bill, Mr. President.

Senator Roco. Yes, Mr. President. So this was apparently sustained in the same view expressed by the Secretary of Justice.

The second point, Mr. President, is, the theory will be that there is no modification of the judgment. It is apparently a modification of the mode of execution. The records will show that that was also the theory being followed in the discussions.

I guess we have no more choice at this point but to adopt those theories when and if it gets to the Supreme Court. The only thing going for the Chamber is that, apparently, most of those are still pending final promulgation or issuance by the Supreme Court.

It is the hope that was expressed by our colleagues from the House that because of this, there may be a practical way out.

The Supreme Court—if this bill becomes a law, let us say, in the next week—will, in its final promulgation, already alter—because it is still within its control—the mode of execution. In which case, we avoid the two issues of *ex post facto* law and change in the mode of execution. But I grant, Mr. President, that any diligent defense counsel will come up with a legal issue which we will then leave to the Honorable Supreme Court to interpret.

Senator Drilon. In fact, Mr. President, I am not yet aware of any death penalty which has been affirmed by the Supreme Court.

Senator Roco. Yes, Mr. President.

Senator Drilon. So this provision, in fact, could stand the test since there is no final judgment yet. With that remark, Mr. President, let me now thank our Colleague from Bicol for that explanation.

Thank you, Mr. President.

Senator Roco. Thank you, Mr. President.

The President. Just to complete the narration of facts.

Senator Roco. Please, Mr. President.

The President. The opinion of the Secretary of Justice to the effect that this bill imposing or prescribing lethal injection as the manner of inflicting the death penalty may be given a retroactive application without violating the *ex post facto* rule, and supported by jurisprudence both from the Philippines and the United States was embodied in a letter he sent to the Office of the Senate President; the Office of the Senate President had the same letter replicated and copies were distributed to all the members of this Body.

Senator Roco. Just also to complete the record, Mr. President, so that those who may be arguing about this later on in court can be guided. The conference committee also examined various state legislations in the United States, and there were those which granted electrocution or injection at the option

of the convicted felon. There were those who chose only one.

What we could not find specifically was a precise instance where the transition occurred where somebody was already convicted by final judgment and the law was altered—as we are altering it—and then to find a ruling to support either of the opinions. We were unable to find a specific case where a convict questioned during the transition period the applicability of a change of law to his situation as a convicted felon.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

APPROVAL OF CONFERENCE COMMITTEE REPORT
ON S. NO. 436/H NO. 6147

Senator Romulo. Mr. President, may I ask that we vote and approve the Bicameral Conference Committee Report on the Lethal Injection Bill.

The President. Is there any objection to the Bicameral Conference Committee Report on the disagreeing provisions of Senate Bill No. 436 and House Bill No. 6147?

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized.

Senator Enrile. Mr. President, I would like to register an abstention. It has been my position that I am against the death penalty.

Senator Herrera. Mr. President.

The President. Senator Herrera is recognized.

Senator Herrera. I also would just like to register an abstention, Mr. President.

Senator Tatad. Mr. President.

The President. Senator Tatad is recognized.

Senator Tatad. Mr. President, consistent with the vote I took on Third Reading, I cast a negative vote.

Senator Fernan. Mr. President.

The President. Senator Fernan is recognized.

Senator Fernan. Mr. President, I would like to register an

abstention because I am opposed to the death penalty.

Senator Coseteng. Mr. President.

The President. Senator Coseteng is recognized.

Senator Coseteng. Mr. President, I would also like to register a vote of abstention.

Senator Macapagal. Mr. President.

The President. Senator Macapagal is recognized.

Senator Macapagal. Mr. President, I would like to register a negative vote not because lethal injection is worse than other forms of execution but because I am against the death penalty.

Senator Roco. In which case, Mr. President, I am constrained, as having been consistently against the death penalty, unlike some who may have changed their votes, to also abstain.

The President. Is there any further abstention or negative vote? [Silence] There being none, the Bicameral Conference Committee Report is hereby approved.

The following is the full text of the Conference Committee Report:

JOINT EXPLANATION

The Conference Committee on the disagreeing provisions of Senate Bill No. 436 and House Bill No. 6147, after having met and fully discussed the subject matter in a conference on March 4, 1996, hereby report to their respective Houses the following, that:

1. The conferees agreed to use the Senate version as the working draft.
2. The first three paragraphs of Section 1 of the Senate version were adopted as the first three paragraphs of the reconciled version while the second paragraph of the House version was adopted as the fourth paragraph of the reconciled version.
3. The conferees agreed that the last paragraph of Section 1 of the reconciled version shall read:

"The death sentence shall be carried out not [later] EARLIER than one (1) year NOR LATER THAN EIGHTEEN (18) MONTHS

after the judgment has become final AND EXECUTORY WITHOUT PREJUDICE TO THE EXERCISE BY THE PRESIDENT OF HIS EXECUTIVE CLEMENCY POWERS AT ALL TIMES."

4. Section 2 of the Senate version was adopted as Section 2 of the reconciled version.
5. Section 3 of the House version was adopted as Section 3 of the reconciled version.
6. Sections 4 and 5 of the Senate version were adopted as Sections 4 and 5 of the reconciled version.
7. The Title of the reconciled version shall read:

AN ACT DESIGNATING DEATH BY LETHAL INJECTION AS THE METHOD OF CARRYING OUT CAPITAL PUNISHMENT, AMENDING FOR THE PURPOSE ARTICLE 81 OF THE REVISED PENAL CODE, AS AMENDED BY SECTION 24 OF REPUBLIC ACT NO. 7659

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

(Sgd.) HON. SERGIO ANTONIO F. APOSTOL
Chairman, House Panel

(Sgd.) HON. RAUL S. ROCO
Chairman, Senate Panel

CONFERENCE COMMITTEE REPORT

The Conference Committee on the disagreeing provisions of Senate Bill No. 436, entitled

AN ACT DESIGNATING DEATH BY LETHAL INJECTION AS THE METHOD OF CARRYING OUT CAPITAL PUNISHMENT, AMENDING FOR THE PURPOSE ARTICLE 81 OF THE REVISED PENAL CODE, AS AMENDED BY SECTION 24 OF REPUBLIC ACT NO. 7659

and House Bill No. 6147, entitled

AN ACT DESIGNATING DEATH BY LETHAL INJECTION AS THE METHOD OF CARRYING

OUT CAPITAL PUNISHMENT, AMENDING
FOR THE PURPOSE SECTION 24 OF
REPUBLIC ACT NO. 7659 WHICH AMENDED
ARTICLE 81 OF THE REVISED PENAL CODE,

after having met and fully discussed the subject matter
in a full and free conference, has agreed to recommend
and do recommend to their respective Houses that
Senate Bill No. 436, in consolidation with House Bill
No. 6147, be approved in accordance with the attached
copy of the bill as reconciled and approved by the
conferees.

Approved,

CONFEREES ON THE PART OF THE
HOUSE OF REPRESENTATIVES:

(Sgd.) HON. SERGIO ANTONIO F. APOSTOL

(Sgd.) HON. ERASMO B. DAMASING

(Sgd.) HON. RAUL A. DAZA

(Sgd.) HON. TEMISTOCLES S. DEJON, SR.

CONFEREES ON THE PART
OF THE SENATE:

(Sgd.) HON. RAUL S. ROCO

(Sgd.) HON. ERNESTO M. MACEDA

(Sgd.) HON. ERNESTO F. HERRERA

(Sgd.) HON. JUAN M. FLAVIER

HON. RAUL M. GONZALES

(Sgd.) HON. ANTONIO M. ABAYA

AN ACT DESIGNATING DEATH BY LETHAL
INJECTION AS THE METHOD OF CARRYING
OUT CAPITAL PUNISHMENT, AMENDING
FOR THE PURPOSE ARTICLE 81 OF THE
REVISED PENAL CODE, AS AMENDED BY
SECTION 24 OF REPUBLIC ACT NO. 7659

Be it enacted by the Senate and the House of Representa-
tives of the Philippines in Congress assembled:

SECTION 1. Article 81 of the Revised Penal

Code, as amended by Section 24 of Republic Act No.
7659 is hereby further amended to read as follows:

“ART. 81. *When and how the death penalty is to
be executed.* - The death sentence shall be executed
with preference to any other PENALTY and shall
consist in putting the person under the sentence to death
by [electrocution] LETHAL INJECTION. The death
sentence shall be executed under the authority of the
Director of [Prisons,] THE BUREAU OF
CORRECTIONS, endeavoring so far as possible to
mitigate the sufferings of the person under the sentence
during the [electrocution] LETHAL INJECTION as
well as during the proceedings prior to the execution.

“THE DIRECTOR OF THE BUREAU OF
CORRECTIONS SHALL TAKE STEPS TO ENSURE
THAT THE LETHAL INJECTION TO BE
ADMINISTERED IS SUFFICIENT TO CAUSE THE
INSTANTANEOUS DEATH OF THE CONVICT.

“PURSUANT TO THIS, ALL PERSONNEL
INVOLVED IN THE ADMINISTRATION OF
LETHAL INJECTION SHALL BE TRAINED PRIOR
TO THE PERFORMANCE OF SUCH TASK.

“THE AUTHORIZED PHYSICIAN OF THE
BUREAU OF CORRECTIONS, AFTER THOROUGH
EXAMINATION, SHALL OFFICIALLY MAKE A
PRONOUNCEMENT OF THE CONVICT'S DEATH
AND SHALL CERTIFY THERETO IN THE
RECORDS OF THE BUREAU OF CORRECTIONS.

“[If the person under sentence so desires, he shall
be anaesthetized at the moment of the execution.]

“[As soon as facilities are provided by the Bureau
of Prisons, the method of carrying out the sentence shall
be changed to gas poisoning.]

“The death sentence shall be carried out not [later]
EARLIER than one (1) year NOR LATER THAN
EIGHTEEN (18) MONTHS after the judgment has
become final AND EXECUTORY WITHOUT
PREJUDICE TO THE EXERCISE BY THE
PRESIDENT OF HIS EXECUTIVE CLEMENCY
POWERS AT ALL TIMES.”

SEC. 2. Persons already sentenced by judgment,
which has become final and executory, who are waiting
to undergo the death penalty by electrocution or gas
poisoning shall be under the coverage of the provisions

of this Act upon its effectivity. Their sentences shall be automatically modified for this purpose.

SEC. 3. Implementing Rules. - The Secretary of Justice in coordination with the Secretary of Health and Bureau of Corrections shall, within thirty (30) days from the effectivity of this Act, promulgate the rules to implement its provisions.

SEC. 4. Repealing Clause. - All laws, presidential decrees and issuances, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 5. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation, whichever comes earlier. Publication shall not be later than ten (10) days after the approval thereof.

BILL ON THIRD READING

S. No. 407—Increasing the Penalty for Violation of the Prescribed Increases or Adjustments in Wage Rates

Senator Romulo. Mr. President, I move that we vote on Third Reading on Senate Bill No. 407. Copies of the bill were distributed to all the members of the Senate on February 29, 1996.

The President. Voting on Third Reading on Senate Bill No. 407 is now in order.

The Secretary will please read only the title of the bill, if there is no objection. [*There was none.*]

The Secretary. Senate Bill No. 407, entitled

AN ACT INCREASING THE PENALTY AND IMPOSING DOUBLE INDEMNITY FOR VIOLATION OF THE PRESCRIBED INCREASES OR ADJUSTMENTS IN THE WAGE RATES, AMENDING FOR THE PURPOSE SECTION TWELVE OF REPUBLIC ACT NUMBERED SIXTY-SEVEN HUNDRED TWENTY-SEVEN, OTHERWISE KNOWN AS "THE WAGE RATIONALIZATION ACT"

The President. The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

YES - 21

Senator Alvarez	Senator Ople
Senator Angara	Senator Osmeña
Senator Coseteng	Senator Revilla
Senator Drilon	Senator Roco
Senator Enrile	Senator Romulo
Senator Fernan	Senator Santiago
Senator Flavier	Senator Shahani
Senator Herrera	Senator Sotto
Senator Honasan	Senator Tatad
Senator Macapagal	The President
Senator Mercado	

NO - 0

ABSTENTION - 0

RESULT OF THE VOTING

The President. With 21 affirmative votes, no negative vote, and no abstention, Senate Bill No. 407 is approved on Third Reading.

**CONSIDERATION OF S. CT. RES. NO. 4
(Amending the Legislative Calendar for the First Regular Session of the 10th Congress)**

Senator Romulo. Mr. President, I move that we consider and approve Senate Concurrent Resolution No. 4 as reported out under Committee Report No. 57. This is the concurrent resolution amending Concurrent Resolution No. 3, providing for the Legislative Calendar for the First Regular Session of the Tenth Congress of the Philippines.

I ask that we limit the reading of the Resolution as I have done already, Mr. President.

The President. With the permission of the Body, the Secretary will read only the title of the Resolution without prejudice to inserting into the *Record* the whole text thereof.

The Secretary.

CONCURRENT RESOLUTION AMENDING CONCURRENT RESOLUTION NO. 3, PROVIDING FOR THE LEGISLATIVE CALENDAR FOR THE FIRST REGULAR SESSION OF THE TENTH CONGRESS OF THE PHILIPPINES