

TUESDAY, FEBRUARY 2, 1999

OPENING OF THE SESSION

At 3:32 p.m., the Senate President, Hon. Marcelo B. Fernan, called the session to order.

The President. The 58th session of the First Regular Session of the Eleventh Congress is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Loren Legarda-Leviste.

Everybody rose for the opening prayer.

PRAYER

Senator Legarda-Leviste.

Let us all give thanks to the Almighty God who created the world and filled it with marvelous signs of His power.

May we who are gathered here today always be reminded of our divine duty—of being stewards to those that our Creator has graciously placed under our care.

Grant, O Lord, that we be responsible caretakers of the beauty and bounty of Nature—preserving its life-giving resources for the sake of future generations.

May we raise our arms to protect the weak, especially women and children who are helpless against the claws of oppression and evil.

May we seek to modestly imitate Your own goodness, Father, so that we may diligently devote ourselves to doing Your will.

Amen.

The President. Thank you, Senator Legarda-Leviste.

ROLL CALL

The Secretary will please call the roll.

The Secretary, reading:

Senator Teresa S. Aquino-OretaPresent

Senator Robert Z. BarbersPresent
Senator Rodolfo G. BiazonPresent
Senator Renato L. Compañero CayetanoPresent
Senator Anna Dominique M. L. Coseteng ...Present
Senator Franklin M. DrilonPresent
Senator Juan Ponce EnrilePresent
Senator Juan M. FlavierPresent
Senator Teofisto T. Guingona JrPresent
Senator Gregorio B. HonasanPresent
Senator Robert S. JaworskiPresent
Senator Loren B. Legarda-LevistePresent
Senator Ramon B. Magsaysay JrPresent
Senator Blas F. OplePresent*
Senator John Henry R. OsmeñaPresent
Senator Sergio R. Osmeña IIIPresent*
Senator Aquilino Q. Pimentel Jr **
Senator Ramon B. Revilla **
Senator Raul S. RocoPresent
Senator Miriam Defensor SantiagoPresent
Senator Vicente C. Sotto IIIPresent
Senator Francisco S. TatadPresent
The PresidentPresent

The President. With 19 senators present, there is a quorum.

The Majority Leader is recognized.

THE JOURNAL

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

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

Senator Drilon. I move that we proceed to the Reference of Business.

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

The Secretary will read the Reference of Business.

* Arrived after the roll call
** On official mission

mostly women, go overseas in search of work, especially in high-risk areas such as domestic service and entertainment. We do not know exactly how many of those registered as single or legally married are practically left with the responsibility of caring for their families by themselves. The country's statistical system does not reveal these facts, but we can be sure that there is a large number of single parents within these two categories.

There are admirable women and men who have conquered formidable odds to competently rear their children and maintain their families. They often succeeded out of sheer will to provide for their children, overcoming great material and emotional obstacles in the process. They are in constant need to devise their own support systems in order to meet their huge parenting responsibilities. They confront all these challenges without benefit of a partner, in the absence of alternative child care arrangements, amidst the daily reality of ebbing resources. They go through parenting children alone.

It is time, Mr. President, that the State shared in the task of parenting by solo parents.

Senate Bill No. 1404 seeks precisely to achieve this. We intend to draw upon existing programs and services of government and ensure that solo parents and their children can have access to them.

Responding to the needs of single-parent families, most of whom live under difficult circumstances, is a responsibility of the State. Besides, it is an investment that entails little cost to the government but warrants a high return in terms of children who grow up to be confident and useful adults. The benefits provided in the bill are intended to curb the public cost of illness and curative health care, the public cost of child abuse and juvenile delinquency and rehabilitation, as well as the cost of other social problems that stem from the lack of a responsive support system for families.

If we can establish by law these enabling mechanisms to assist solo parents and their families, then we invest in an effective preventive approach to many of the social problems we now face. Moreover, we will render fealty to the state principles of recognizing the sanctity of family life and the family as the foundation of the nation.

Mr. President, this proposal is an affirmative action to assure self-reliance for solo-parent families. More than being a plea in behalf of solo parents and their children, this proposal is an action agenda to further promote the welfare of the Filipino family.

Thank you.

The President. Thank you, Sen. Teresa Aquino-Oreta.

The Majority Leader is recognized.

Senator Drilon. Mr. President, we wish to extend our congratulations to Senator Aquino-Oreta for her sponsorship speech.

SUSPENSION OF CONSIDERATION OF S. NO. 1404

Senator Drilon. Mr. President, we move to suspend consideration of Senate Bill No. 1404 as reported out under Committee Report No. 15 so that our colleagues may go over the sponsorship speech and the bill itself and enable them to ask their questions, if any, during the period of interpellations.

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

MANIFESTATION OF SENATOR DRILON (On the Information Given that the Committee on Economic Affairs Has Nine Members)

Senator Drilon. Mr. President, before we proceed to the next item, may I just make a manifestation that upon verification from the Secretary of the Senate, the Committee on Economic Affairs has nine members, not 12 as manifested previously.

The President. Nine members?

Senator Drilon. Yes, Mr. President, including the chairman. Mr. President, may we move to resume consideration...

The President. Before we act on the motion, Senator Tatad is recognized.

Senator Tatad. Mr. President, the statement of the Majority Leader is correct. I was given the initial information that there were 12 members, and then later I was told that the three others are *ex officio* members. So this is a correct information.

Thank you very much, Mr. President.

The President. Let it be noted. Please proceed.

BILL ON SECOND READING S. No. 1255 - Clean Air Act (Continuation)

Senator Drilon. Mr. President, I move that we resume consideration of Senate Bill No. 1255 as reported out under Committee Report No. 8.

The President. Is there any objection? *[Silence]* There being

none, resumption of consideration of Senate Bill No. 1255 is now in order.

Senator Drilon. Mr. President, we have in our blue book the amended copy of Senate Bill No. 1255 as of January 27, 1999. May we suggest to the sponsor and to our colleagues that we use this version as the basis of the period of amendments.

The President. Does everyone have a copy of the amended copy of Senate Bill No. 1255 as of January 27, 1999 consisting of 36 pages with annexes?

Senator Drilon. Yes, Mr. President. May we now ask the Chair to recognize the principal sponsor, Sen. Gregorio Honasan.

The President. Sen. Gregorio Honasan, the principal sponsor, is recognized.

Senator Drilon. May I suggest that we go page by page during the period of individual amendments.

The President. As per suggestion of the Majority Leader, let us go page by page.

Senator Drilon. Mr. President, on page 1,...

The President. Senator Roco is recognized.

Senator Roco. Mr. President, if our distinguished friend will allow some recommended amendments which we have manifested in our working group. Maybe it was too obtuse the way I explained it but it was not worked in. May we suggest certain modifications if it pleases the sponsor.

Section 2, on the Declaration of Principles, I thought, it was to be worded in a way where we can make it more declarative. Since it is a declaration of principle, the way it is worded...I am not sure and maybe I should ask the sponsor.

What is being declared here, guarantee and protection of rights?

Senator Honasan. Mr. President, that is correct.

Senator Roco. So, it is not so much the declaration of the Constitution.

Senator Honasan. That is correct, Mr. President.

Senator Roco. Would the sponsor, Mr. President, be amenable to modifications to this Declaration of Principle?

Senator Honasan. Certainly, Mr. President, as long as there will be no departure from the spirit in the Declaration of Principles.

Senator Roco. First, Mr. President, may we cut it into two parts, so that one is the Declaration of Principles, and the other one is on the Rights.

Senator Honasan. We would be open to that, Mr. President.

Senator Roco. If the sponsor is open to this, Mr. President, may we just restate then.

In lines 3 to 7, up to the comma (,): first, just a restatement of the Declaration of Principles in the Constitution which is reworded in the present bill. I will mention this only because I have two other environmental principles that I will suggest.

If, as a matter of style, the first principle shall be a restatement of what is in the Constitution, which says:

The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

There is really what is stated in the first four lines. May we make that the first sentence, just a complete sentence.

Would that be acceptable, Mr. President?

Senator Honasan. That will be acceptable, Mr. President.

ROCO AMENDMENTS

Senator Roco. Then, I so move, Mr. President, that the first four lines be modified to just assert or reassert Section 16 of Article II of the Constitution, if there is no objection.

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

Senator Roco. Thank you, Mr. President. There are three principles—in the hurried readings I did on environment, Mr. President, because I was asked by the Majority Leader and the staff to propose some modifications—to which I thought I would call the attention of the sponsor.

No. 1 is, protection of the environment must be global in character and must be based on sustainable development, Mr. President.

Let me explain this a little. We cannot clean the air unless we also clean the water. In American cases, there was an instance when the air was clean but the water was dirtied. There was less emission from a company but the effluence coming from the water was dirty. It had to go somewhere. So the principle of global

environment, which is similar to what the gentleman refers to as the effort to have an integrated or comprehensive plan maybe should have a recognized principle.

If the idea is acceptable, then subject to style, Mr. President, we will say: THE STATE SHALL APPROACH—again, I do not have specific words, Mr. President...BUT SHALL PROMOTE AND PROTECT THE ENVIRONMENT TO ATTAIN SUSTAINABLE DEVELOPMENT.

Senator Honasan. Thank you, Mr. President. May the committee state, in layman's terms, our understanding of the proposal.

Senator Roco. Yes, please.

Senator Honasan. Does this mean that the approach for the cleanup, whether we take it in a global context, must be comprehensive? The cleanup must be comprehensive: air and water, beginning with our own....

Senator Roco. The frame of mind of government as projected by this bill, if approved and accepted by this Chamber, must be global in character and must have sustainable development.

Senator Honasan. That principle, as articulated by the gentleman, would be acceptable, Mr. President.

Senator Roco. So as a second Declaration of Principle, Mr. President, as worded subject to style, THE STATE SHALL PROMOTE AND PROTECT THE GLOBAL ENVIRONMENT TO ATTAIN SUSTAINABLE DEVELOPMENT. May we so move?

Senator Honasan. We accept that, Mr. President.

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

Senator Roco. The third principle will be important, Mr. President, because again both laws in other countries and the international conventions seem to recognize the principle that "polluter must pay." Here, the polluter is not only made to pay but the polluter can be sued by almost anybody. So, again, to guide the courts later on, in the philosophy and perspective of this Chamber, may we suggest, subject to style, a reinstatement of an internationally recognized principle in environmental law that polluter must pay. Maybe, we can later on—I did not work it out in detail because I was not sure if this will be accepted—but the principle that "POLLUTER MUST PAY" must be stated as a third proposition.

Senator Honasan. Mr. President, this would have

consequent effects on the various provisions of the bill as proposed. The committee is wondering if the gentleman is also prepared to modify accordingly the details that would give life to this principle that the polluter must pay, considering the legal framework.

Senator Roco. Yes, Mr. President. Then we work backwards later on, because I am just reaching conclusions based on the existing text. Again, I am not trying to depart, I am just trying to articulate. Because, to me, it is just craftsmanship; I have no disagreement with the principle and so with the substance of the bill.

But if we aspire as is declared in this bill to have a good, balanced, comprehensive environmental program, then we must already warn all and sundry that polluters must pay. It is not necessarily monetary. Maybe, we can hold them culpable later on for some other reason.

Senator Honasan. There is another point, Mr. President, that the committee would like to raise. Would there be any sequential dimension to this in the sense that before we invoke this principle that the polluter must pay, the regulatory mechanisms that must be the initiative of government must also be in place, before we can subject potential offenders and polluters to certain sanctions?

Senator Roco. It is already in the bill of the gentleman because he holds them accountable and any citizen can sue. Is that correct?

In other words, if a citizen can sue, somebody must answer for the demand for a redress of rights, and he who dirties up his environment must be responsible. Again, I do not have the specific words, Mr. President. I will ask the staff to reword it but the full phrase or the full thought is the twin principle that in fighting for a clean environment, polluters pay and the responsibility is primarily area-based.

Because Manila cannot clean up the air of Naga. Iloilo must be responsible for the clean air in Iloilo. Tarlac must be responsible for the clean air in Tarlac. So it is a twin proposal. If this is amenable to the sponsor, we will craft later on the appropriate wordings to embody the principle that the State recognizes polluters must pay and the primary responsibility of cleaning up the habitat and the environment is area-based and therefore on local government. That is, the devolution to local government powers is already recognized.

Senator Honasan. Mr. President, with this explanation, we accept that third principle.

Senator Roco. Then, may we so move, Mr. President, subject to style. The principle is that the State also recognizes the

principle in fighting for a clean environment that polluters must pay and that the responsibility of cleaning the habitat and the environment is primarily area-based and the responsibility of local government, which is already embodied in current law. In any event, the local government has the primary responsibility for making sure it cleans up.

The President. Is there any objection to the proposed amendment of Senator Roco? *[Silence]* There being none, subject to style, the amendment is approved.

Senator Roco. Thank you, Mr. President. With that, Mr. President, we now have four declared principles. May we then go to the second part.

May we suggest that the second part on guarantee and protection of rights of citizens be Section 2. So that it will read as follows: PURSUANT TO THE ABOVE DECLARED PRINCIPLES, THE FOLLOWING RIGHTS OF CITIZENS ARE HEREBY NOW RECOGNIZED, or whatever the appropriate word may be.

I am suggesting RECOGNIZED only because to guarantee is difficult. I will give an example, Mr. President, the right to breathe clean air.

Supposing Senator Ople smokes beside me and I do not like people smoking around me, just supposing. Can I sue him? Who will I sue? Government—because government failed to guarantee my clean air? Or will I sue Senator Ople? If we make it a guarantee, I mean, this is a pure example. I tolerate; I was a smoker myself so I am very tolerant and amenable to having secondary smoke. I feel I am immune. But when we put it the way it is put that the following rights are guaranteed, then the cause of action—and we do strengthen causes of action of individuals—is my problem as a lawyer. Who will I sue, Senator Ople or the Republic of the Philippines because they did not guarantee clean air around me?

So if it is acceptable, Mr. President, Section 2 may be reworded therefore: PURSUANT TO THE ABOVE DECLARED PRINCIPLES, THE FOLLOWING RIGHTS WILL BE SOUGHT TO BE RECOGNIZED AND THE STATE SHALL SEEK TO GUARANTEE THEIR ENJOYMENT.

We must not make it a firm guarantee but we will strive, and this is influenced by the idea of the gentleman when we were discussing that we must evolve the program. So, we shall seek to guarantee the enjoyment of clean air, et cetera. Could this be acceptable, Mr. President?

Senator Honasan. Mr. President, this would be acceptable. In fact, the original authors of various versions of the Clean Air Act have thought of this in the same light, that it be an evolution-

ary type of legislation, open to any modification and amendments as we develop more ability to enforce and to fund our monitoring mechanisms.

Senator Roco. In which case, Mr. President, we move that the new Section 3 will begin therefore, as follows, with the title:

RECOGNITION OF RIGHTS . . . PURSUANT TO THE ABOVE DECLARED PRINCIPLES, THE STATE SHALL SEEK TO GUARANTEE THE ENJOYMENT BY THE CITIZENS OF THE FOLLOWING RIGHTS.

I am making it tentative so that we are not sued, because it will evolve. Maybe in 20 years we shall have clean air. But if Senator Ople stands beside me, I do not have to sue the government. Maybe I will just sue Senator Ople.

Senator Honasan. We accept this proposal, Mr. President.

Senator Roco. Thank you, Mr. President. In which case, Mr. President, there is less difficulty for this representation to accept all the enumerated rights because if we seek to evolve so that these rights will be enjoyed, then there are no litigious situations that we foment. We lawyers have a duty under our oath not to foment litigation.

I am now on page 2, Mr. President—the right to participate in environmental policy; right to participate in the decision-making; right to be informed, et cetera, the right of access to public or private records; the right to bring action. I leave this to the sponsor because even without the two rights to bring action, the moment we put rights, then we can enforce.

Again, it is pure draftmanship, Mr. President. Even without these letters (g) and (h), we can really go to court based on these sections.

If the sponsor is amenable, maybe we can skip letters (g) and (h) in an effort to start...

Senator Honasan. Mr. President, we accept the amendment.

Senator Roco. Thank you, Mr. President. May we move then for the deletion of letters (g) and (h).

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

Senator Roco. May we just ask the staff, Mr. President, to make sure that these are brought in the text, in the body of the bill. Because in the original bill when it was less thick than this, there were provisions on court actions. I am just calling attention so that

the staff work is coordinated with our interpellations.

Mr. President, I can continue on Declaration of Policies but I am looking at my watch and I did promise somebody to be somewhere very close to this time. I did inform the Majority Leader.

If I can be excused for now, I will beg the indulgence of the sponsor.

The President. The Majority Leader is recognized.

SUSPENSION OF SESSION

Senator Drilon. Mr. President, I move that we suspend the session for a few minutes.

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

It was 4:18 p.m.

RESUMPTION OF SESSION

At 4:22 p.m., the session was resumed.

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

Senator Drilon. Mr. President, may I ask the Chair to recognize Sen. Juan Flavie for the Flavie amendments, not necessarily on pages 1 or 2 but on various pages of the bill. Just the Flavie amendments.

The President. Senator Flavie is recognized for his amendments.

FLAVIE AMENDMENTS

Senator Flavie. Thank you, Mr. President. I have five amendments.

The first one is on page 3, under Section 4, Definitions, subsection (a) Air Pollutant. Subject to style, may I move that we include the phrase UNWANTED SOUND AND OFFENSIVE ODOR to complete what is known as Air Pollutant, Mr. President.

Senator Honasan. We accept it, Mr. President.

The President. The amendment proposed by Senator Flavie is accepted.

Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Flavie. Thank you, Mr. President. On page 5, line 22, I move that we delete the last two words of line 22 and the rest in line 23, and I read, thus: "Or aesthetically objectionable properties such as offensive odors."

The reason for this, Mr. President, is that, technically speaking, it does not qualify under hazardous substances.

Senator Honasan. We accept it, Mr. President.

The President. So the following words from lines 22 to 23 are deleted: "Or aesthetically objectionable properties such as offensive odors."

Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Flavie. Thank you, Mr. President. On the same page, at the bottom, which is part of the amendment of Sen. Loren Legarda-Leviste on the Definition. In the deletion, the rest of the whole definition was removed and I feel that doing this will fall short of clarity.

Therefore, in line 27, starting from the sentence, "This method" up to line 29, ending with the word "oxidation", I propose that it be returned so that the sentence will read: THIS METHOD IS UTILIZED TO REDUCE THE VOLUME OF SOLID WASTES CHEMICALLY WHICH INCLUDES PYROLYSIS, GASIFICATION AND ELECTRO-CHEMICAL OXIDATION.

Mr. President, it is important that we qualify to include these processes particularly pyrolysis classification and electro-chemical oxidation for the sake of clarity.

Senator Honasan. Thank you, Mr. President. May the sponsor and the committee seek clarification if the deletion of this sentence from line 27 to line 29 on page 5 is a proposed amendment of Sen. Loren Legarda-Leviste. For this reason, we may need her comments.

Senator Flavie. I have checked on the Legarda-Leviste amendment which I monitored the previous day. It does not contravene. It just adds better clarity, Mr. President.

Senator Honasan. With the explanation of the distinguished gentleman, we accept the amendment, Mr. President.

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

Senator Flavier. The third amendment is on page 6A. At the bottom of page 6A are two words that are apparently a typographical error. First is the word "dioxine". It should be spelled without an "e". I think the word there is not "furnace", but the word should be FURAN which is a toxic chemical, Mr. President.

I am not altering the meaning. May I therefore move that those be changed accordingly, Mr. President.

Senator Honasan. We accept and recognize these corrections, Mr. President.

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

Senator Flavier. My fourth amendment is on page 15. In line 22, subsection (f), subject to style, and for comprehensiveness and completeness, I move that we also include the words STATEANDLOCALUNIVERSITIES.

Senator Honasan. We accept, Mr. President.

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

Senator Flavier. My next amendment is on the same page, line 30, subsection (h). In the same spirit, for the sake of completeness and comprehensiveness, I move that we include state universities as one of the government agencies that can be called upon for help. So the inclusion, subject to style, of the words STATEUNIVERSITIES.

Senator Honasan. We accept, Mr. President.

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

Senator Flavier. Mr. President, finally on page 25, at the bottom of the page or line 27, after the word "establish", I move that we include the words MONITOR AND REGULATE. We do not only include establishing acceptable levels of noise but we also need to emphasize that there is need for monitoring and regulating so that we can strengthen the provision.

So, it will be an insertion of the words MONITOR AND REGULATE after the word "establish" so that the sentence will read, thus: "Standards for Noise, Vibration and Odor Levels. - The Department shall establish, MONITOR AND REGULATE acceptable levels..."

Senator Honasan. We accept, Mr. President.

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

Senator Flavier. Thank you, Mr. President.

The President. Thank you, Senator Flavier. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 1255

Senator Drilon. Mr. President, there are a number of our colleagues who have manifested their intention to propose amendments, but they are not in the hall right now. In view thereof, I move that we suspend deliberation on Senate Bill No. 1255.

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

SUSPENSION OF SESSION

Senator Drilon. Mr. President, I move for a one-minute suspension of the session.

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

It was 4:30 p.m.

RESUMPTION OF SESSION

At 4:31 p.m., the session was resumed.

The President. The session is resumed.

CONSIDERATION OF S. CT. RES. NO. 6 (Recommending Rejection of Proposal to Increase the 1998 MAV for Coffee) (Continuation)

Senator Drilon. Mr. President, I move that we resume consideration of Senate Concurrent Resolution No. 6 as reported out under Committee Report No. 23.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Concurrent Resolution No. 6 is now in order.

Senator Drilon. May I ask the Chair to recognize the principal sponsor, Sen. Sergio R. Osmeña III. We are still in the period of individual amendments.

The President. Sen. Sergio R. Osmeña III is recognized.