

RECORD OF THE SENATE

MONDAY, NOVEMBER 23, 1998

NATIONAL ANTHEM

OPENING OF THE SESSION

At 3:21 p.m., the Senate President, Hon. Marcelo B. Fernan, called the session to order.

The President. The 37th session of the Senate in 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 Honorable Senator Ramon B. Magsaysay Jr.

After the prayer, the Senate Choir will lead us in the singing of the national anthem.

Everybody rose for the prayer.

PRAYER

Senator Magsaysay. This is an Ecumenical Prayer.

Loving Heavenly Father, we thank You for our lives. Much more, we thank You for the people around us who have been making our lives happier and fuller, and our loads lighter.

Our families, staff, anonymous people who support our cause--they have stood by us in our highs and lows, responding to the call of duty and responsibility.

You know, O God, that much of the things that we have done have been made known to our constituents. But today, we thank You for the unheralded heroism of so many:

the doctors and the nurses;
the teachers and the tutors;
the carpenters and masons;
the farmers and animal raisers;
the textile makers and tailors;
and the parents and guardians who have labored

honestly and without publicity, providing our needs with such passion and dedication.

In Your sight, they are far greater than all of us combined. Thus, O Lord, for Your fairness, justice and righteousness, we bow before You and render You the highest praise.

Amen.

Everybody remained standing for the singing of the national anthem.

ROLL CALL

The President. The Secretary will call the roll.

The Secretary, reading:

Senator Teresa S. Aquino-Oreta	Present
Senator Robert Z. Barbers	Present
Senator Rodolfo G. Biazon	Present
Senator Renato L. <i>Compañero</i> Cayetano ...	Present
Senator Anna Dominique M.L. Coseteng ...	Present
Senator Franklin M. Drilon	Present
Senator Juan Ponce Enrile	Present
Senator Juan M. Flavier	Present
Senator Teofisto T. Guingona Jr.	Present
Senator Gregorio B. Honasan	Present
Senator Robert S. Jaworski	Present
Senator Loren B. Legarda-Leviste	Present
Senator Ramon B. Magsaysay Jr.	Present
Senator Blas F. Ople	Present
Senator John Henry R. Osmeña	Present*
Senator Sergio R. Osmeña III	Present
Senator Aquilino Q. Pimentel Jr.	Present
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	Present
Senator Miriam Defensor Santiago	Present
Senator Vicente C. Sotto III	Present
Senator Francisco S. Tatad	Present
The President	Present

The President. With 22 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.

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized.

* Arrived after the roll call

the abolition of the death penalty will be forthcoming and will be filed within the week.

Senator Tatad. We would like to have the privilege of coauthoring such a bill, with the consent of our distinguished colleague.

Senator Pimentel. Certainly, Mr. President. It will be our pleasure. We would like to state that the reason for having brought out this speech at this time was dictated by the fact that at the time I visited Echegaray, there was no certainty yet as to when he would be executed. As a matter of fact, there was talk that he would have been executed early this morning. But for one reason or another, I saw in the newspapers that he will probably have time to enjoy his Christmas this year, and we do not know for how long he will be granted the reprieve.

Senator Tatad. I would like to thank the gentleman for that answer. This is my second question and probably, my last.

The gentleman from Cebu, Senator Osmeña, suggested that perhaps a resolution should be initiated by the Senate asking for a stay of all executions until a sufficient review of the death penalty law shall have been completed.

I would like to join him in that request. But even before doing that, is too much to ask the LAMP Senators or the LAMP as a Party, outside of the Senate, to petition the President for such a stay.

Senator Pimentel. We will have to ask the Majority Leader, Mr. President, to respond to that. In any event, the suggestion for the Senate to take action would probably be more feasible assuming that we have the votes to carry it through.

Senator Tatad. That is all, Mr. President. I would like to thank the distinguished gentleman.

The President. Thank you, Senator Tatad.

Senator Drilon. Mr. President, there are two of our colleagues who have requested also the opportunity to ask questions on Senator Pimentel, however, they have left the hall. Therefore, with the permission of the Chamber, we would defer referral of the privilege speech to the appropriate committee.

Again, with the consent of the Chamber and with the consent of Senator Pimentel, we may ask him at the session tomorrow to yield for a few more questions from two of our colleagues, namely, Senator Barbers and Senator Revilla.

SUSPENSION OF SESSION

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

The President. The Chair declares a one-minute suspension of the session, if there is no objection. [*There was none.*]

It was 6:08 p.m.

RESUMPTION OF SESSION

At 6:09 p.m., the session was resumed.

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

Senator Drilon. Mr. President.

BILL ON SECOND READING S. No. 1255 -- The Comprehensive Air Pollution Control Policy (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. We are now in the period of interpellations. May I ask the Chair to recognize the principal sponsor, Sen. Gregorio B. Honasan; and to interpellate, may I ask that Sen. Miriam Defensor Santiago be recognized as well.

The President. Senators Honasan and Santiago are recognized.

Senator Santiago. Mr. President, may I inquire from the distinguished sponsor if he would yield the floor so that I could raise about 12 questions?

Senator Honasan. With pleasure from the lady senator from Iloilo, Mr. President.

The President. Please proceed.

Senator Santiago. Thank you.

These questions will have a tendency to be long, and with the permission of the gentleman, I will have to send a signal that the question has been properly asked or has been terminated by, "That is the question."

The first question: The US Clean Air Act has a section which provides that manufacturers should guarantee to the ultimate purchaser and the subsequent purchaser that the motor vehicle

and the motor vehicle engine comply with the standards set forth in the Act.

Recently, Honda was ordered to pay US\$267 million to settle allegations that it violated the Clean Air Act by selling vehicles with disabled emission control diagnostic systems. The settlement is the largest ever under the Clean Air Act of the United States.

In the case of the bill under consideration, Section 28 provides for regulation of all motor vehicles and engines. It provides that no new vehicle or engine should be registered unless it complies with the emission standards as evidenced by a certificate of conformity. However, our bill does not specify who has the burden of ensuring that the vehicle complies with the emission standards. It would seem, on the face of the bill, that the responsibility is given to the user since it is the user who registers the car.

Having laid that basis, I would now like to ask a series of questions.

Should the same provision, as in the US Clean Air Act imposing liability on the manufacturers, not be incorporated in the Philippine version since new cars are being sold every year and environmental protection from motor vehicle emissions should be a shared responsibility between the owner and the manufacturer? Would it not be better if manufacturers guarantee that a new vehicle or engine complies with emission standards since it is the manufacturers who have the equipment to implement and check if the motor vehicle and engine complies with the standards? That is the question.

Senator Honasan. Thank you, Mr. President. The Committee agrees that it should be incorporated. In fact, the spirit of the proposed bill requires the DENR, as the lead agency, in coordination with the Department of Transportation and Communications, to incorporate this--an integrated motor inspection and maintenance program. We would agree that this has to be amplified and given due clarity.

Senator Santiago. I take it that the sponsor will not object if, during the period of amendments, I would propose an amendment to specify and clarify that it is the manufacturers who will undertake responsibility and liability for compliance with the emission standards and I shall act accordingly.

Senator Honasan, We would welcome such amendment.

Senator Santiago. Thank you. This is the second question.

Last year, during the deliberations on this same bill, I proposed that the penalty for stationary sources should be P100,000 per day. This proposal is now incorporated in the present Section

43. However, I also propose that the penalty should be doubled if the stationary source is located in a residential area. My basis is, there are a lot of residential houses which are now being used as factories.

My question is: Would it not be proper to impose a higher penalty for these factories?

Senator Honasan. Thank you, Mr. President. It would, and it would also be a function of our ability to monitor such excesses and the effect on residential areas.

Senator Santiago. Yes, and that leads to my next question. When this bill becomes a law, would our government have the capability and the capacity to enforce its provisions? Does our existing government have the technology to monitor whether the standards are followed?

Senator Honasan. Mr. President, the capability is limited. These limitations will be given due clarity and assessed dispassionately by the Presidential Air Quality Commission which will be the interim lead body for this until we can revoke its existence by the passing of this bill. These are some of the issues that will be clarified.

Senator Santiago. There does not seem very much we can do unless it is to completely scrap this bill on the ground that the government's capability in its present limited state would render it totally fruitless. But, otherwise, I guess simple acceptance of the fact that our capability is limited should be sufficient for the present.

I will now go on to question No. 4, particularly dealing with Section 25 which prohibits the use of incinerators. I have a series of questions with respect to this section.

Are all types of incinerators banned under this bill? There are reports that MMDA is considering putting up an incinerator to solve the garbage disposal problem in Metro Manila.

May I know how many incinerators are operating in Metro Manila and in the nation as a whole? Are there pending applications for the establishment of incinerators? If there are pending applications, what will happen to those applications pending the passage of this bill?

It further provides for the use of long term and more environmentally friendly approaches to the waste problem. What are the alternative waste management systems that can be used to replace incinerators?

Senator Honasan. Mr. President, at the moment, we are gathering the comprehensive data that will give us the total number. All we have at the moment are data regarding 17

specialized incinerators or waste disposal systems that are in hospitals, because this is the peculiar nature of hospital waste.

As to the first question of the lady senator, this is not a blanket banning of incinerators. There are indeed incinerators that address the pollution problem by a series of chambers that convert this waste into another form of energy. And these are the alternative means of waste disposal and incineration that we are currently considering in the bill.

Senator Santiago. Just to clarify. If this bill becomes a law, it does not necessarily mean that incinerators will be completely banned. Would that be correct?

Senator Honasan. That would be correct, Mr. President.

Senator Santiago. If so, then what would be the general parameters for acceptable incinerators during the lifetime of this proposed law?

Senator Honasan. Mr. President, the parameters accepted, as incorporated in the bill itself, would be best available technology. We realize the complexity of the problem of enforcement, but until we can actually provide alternative means of disposal, we will be have to be more liberal about the enforcement of this provision.

Senator Santiago. What was the term again, please? Best alternative technology?

Senator Honasan. Yes, Mr. President.

Senator Santiago. Could the sponsor indicate to us what would be the elements in a definition of that term "best alternative technology"?

Senator Honasan. We have been informed, Mr. President, that there are alternative means of waste disposal which include microwave technology, autoclaving and, of course, newer versions of incinerators that contain the pollutants.

Senator Santiago. Does the gentleman mean to say that until these best alternative technology products are available to our government and our government would be able to afford the cost of these technology products, that in the meantime all types of incinerators would be allowed under this law?

Senator Honasan. Actually, there are already available technologies in a calibrated manner addressing this. Aside from autoclaving and microwaving, we refer to all ecologically safe and nonburn technologies and other methods requiring local government intervention that deals with municipal, medical and hazardous waste. But this all begins with waste segregation at the lowest possible level. The best available technology only enhances our calibrated attempts to solve the pollution problem.

Senator Santiago. If these alternative waste management systems are already available, then why should the bill still allow incinerators?

Senator Honasan. For the simple reason that we are still quite far from the scale that will allow us to do this on a massive level to consider it an effective implementation of the policy.

Senator Santiago. Then may I please go to the basic point. If we are going to allow incinerators under this proposed law, why we are going to pass this proposed law at all? What change would it effect in the existing environmental procedures, processes and results?

Senator Honasan. In effect, this actually brings us to another dimension or for most part of the proposed bill considering our limited ability to enforce the very same provision. This is just a statement of intent.

We are laying on the ability of the Presidential Air Quality Commission and the lead agency, which is the Department of Environment and Natural Resources, to come up with an air quality assessment plan. And from these will emanate the restrictions that will be localized to what we call air quality control zones, and this is where the best available technology will play its part.

In the meantime, there are various modes of interventions that will be put in place based on the stewardship of the DENR, as the chair of the Air Quality Commission, and this will be monitored on a very regular periodic basis.

Senator Santiago. I will go to question No. 5.

Section 17, paragraph 2, provides:

The Department, upon proper identification, shall have a right of entry to, or access of, upon; or through any premises of such person or establishment, where the source of emission is maintained, and may, at any time during the day or night, have access to and copy any relevant record, inspect any pollution or waste source, control device, monitoring equipment or method required, and test any emission which such person is required to sample.

Will this provision not violate the constitutional provision against illegal search and seizure? This provision, as presently worded, might be open to abuse by officials tasked with enforcing its provisions. Would it not be better to allow such access to private premises only upon order of a court?

Senator Honasan. Mr. President, that is the intent of the bill. This can only be done through a court order, and this is also based on the principle incorporating the police power of the state.

Senator Santiago. Then I am satisfied that that is the sponsor's interpretation of Section 17, paragraph 2. But would it not be better if we incorporated a specific provision to that effect which would take the form of an amendment to Section 17, paragraph 2?

Senator Honasan. Mr. President, we would welcome such an amendment during the specified period.

Senator Santiago. Thank you.

Question No. 6. Section 16 provides for the establishment of an Environment and Natural Resources Office in every province, city or municipality.

May I please know if there are existing offices of the DENR? Will these be the same as the district offices of the Department of Public Works and Highways? Does the gentleman have an estimate of how much will be needed to put up these offices?

Section 15 already provides for the role of local government units. Is it not possible for the local government units to perform the functions of these offices? What will be the function of these offices which cannot be delegated to local government officials? That is the question.

Senator Honasan. Thank you, Mr. President.

We are confident that the DENR, through its regional and municipal offices, will be coordinating closely with the local government units that have the manpower. This issue was brought up in a previous interpellation by the gentleman from Cagayan de Oro and we agree completely that this has to be clarified also, the interrelationships between the existing DENR offices and the local government unit participation.

We would also welcome any amendment that would clarify this provision and this mechanism for coordination.

Senator Santiago. Let me move on to the next question.

As of June 1998, the US Environmental Protection Agency has promulgated primary and secondary national ambient air quality standards for six criteria pollutants--carbon monoxide, nitrogen dioxide, particulate matter, ozone, sulphur dioxide, and lead.

Primary standards are adopted to protect public health. Secondary standards are adopted to protect public welfare. Annex "A" is the initial list and values of the hazardous air pollutants. The list includes nitrogen dioxide, sulphur dioxide and lead which are also included in the US list.

My question is this: Will the bill establish both primary and secondary standards? Is this the same as the national or AQCZ level provided in Section 11?

Senator Honasan. This is the intent, Mr. President. But I guess, again, it will all be a function of our ability to provide the testing and monitoring mechanism for this. This would be the intention--to provide primary and secondary standards.

Senator Santiago. Would it be the same as the national and AQCZ level provided in Section 11?

Senator Honasan. It will be the same, Mr. President.

Senator Santiago. Thank you. My next question will refer to Section 11, the first paragraph. This provides that the department is mandated to review and/or revive and publish annually a list of hazardous air pollutants with corresponding guideline values and/or standard necessary to protect public health, safety and general welfare.

Under the second paragraph, however, it provides that the Department shall issue air quality guideline values for an air pollutant within 12 months after such pollutant has been included in the list.

Now I have a series of questions: Is the first paragraph not contradicted by the second paragraph? When are the quality guideline values required to be published? Is it upon publication of the list of the hazardous air pollutant or at any time within 12 months after such pollutant has been included in the list? Would it not be better to require the Department to issue the list together with the air quality guideline values and standards?

Senator Honasan. Mr. President, we would agree that the Department will have to publish the air quality standards as an initial step, and the intent of the bill requires the local government units, based on the consideration that there are air quality control areas, to provide the inputs that would complete the cycle before we can actually begin to enforce this.

Senator Santiago. May I have a categorical answer to the question. When are the quality guideline values required to be published, upon publication of the list or at any time within 12 months?

Senator Honasan. Upon publication of the list, Mr. President.

Senator Santiago. Is there any objection if the law were to require the Department to issue the list together with the air quality guideline values and standards?

Senator Honasan. There would be no objection to that modification, Mr. President.

Senator Santiago. I would like to thank the distinguished gentleman, Mr. President. Next question.

The US Clean Air Act has a provision which authorizes the Secretary of Labor to conduct continuing evaluations of potential laws or shifts of employment which may result from the administration or enforcement of the provisions of this Act including, where appropriate, investigating threatened plant closure or reductions in employment allegedly resulting from such administration or enforcement. The Clean Air Act of America is expected to affect directly the industries that pollute the environment and indirectly the employees dependent on these industries for their livelihood. Compliance with the provisions of the US Clean Air Act may result in closure of plants and loss of employment.

Now I come to the question. Why is there no provision in our bill authorizing the Secretary of Labor to establish protection to employees who are discharged or laid off or threatened with discharge or layoff or whose employment is otherwise adversely affected or threatened to be adversely affected because of the alleged results of any requirement imposed under this Act.

Senator Honasan. Mr. President, that is probably an accepted shortcoming of the proposed bill in its present form, but at the same time, we are also confident that the Presidential Air Quality Commission begins to function, there would be a mechanism for deriving this input from meaningful consultations with the Secretary of Labor who would take this into account and come up with an implementable policy related to air pollution. With this, I think we can craft a better bill or version of the bill in the future.

Senator Santiago. But, Mr. President, it is my position that there should be a specific provision in the instant bill authorizing the Secretary of Labor to protect the employees who might be discharged or laid off as a result of the implementation of this Act.

Would the distinguished gentleman have any objections if we propose the proper amendment during the proper stage?

Senator Honasan. We would have no objection, Mr. President.

Senator Santiago. Thank you.

I will now go to Section 31, paragraph (b). It provides: "xxx no person shall manufacture, sell, supply, offer for sale, dispense, transport or introduce into commerce automotive diesel fuel which contains a concentration of sulphur in excess of 0.20% (by weight) and for which fails to meet the minimum cetane number of 47 and minimum cetane index 55 xxx."

Should the diesel fuel quality not be measured using cetane index at 47 minimum or cetane number of 47 minimum?

Senator Honasan. Mr. President, based on the information that has been made available to the committee, cetane number is the most universally accepted measure of ignition quality of diesel fuel. It has beneficial effects on emissions and the cetane index is also useful as a means of product quality control. So it is in this light that we have incorporated these standards into the bill.

But again, considering the liberal nature of the bill itself, we are also open to variations in the standards as long as it achieves the same long-term objective.

Senator Santiago. Mr. President, I am disturbed by the observation previously made that requiring a new specification for diesel ignition quality using cetane number will entail the use of a special test engine. I am told that no oil company in the Philippines currently has such an engine in order to meet this test on cetane number of 47 therefor. Each oil refinery will have to purchase, operate and maintain this very expensive piece of equipment reportedly costing US\$5 million. Would that not contribute to the marginal value to the consumer?

Senator Honasan. It would, Mr. President. But based on the standards discussed with the Department of Energy, it is our information that the oil companies have agreed to a common standard.

Senator Santiago. My next question still refers to the same Section 31, paragraph (B) this time to the provision that not later than January 31, 2003, the content of sulfur in automotive diesel fuel shall be limited to 0.05 percent.

My question is: What is the reason for choosing the year 2003? Would the year 2005 not be a better choice?

Prudence dictates that a gradual rather than an abrupt process of adopting stricter sulfur content requirements should be adopted in the light of the price impact on consumers, the additional foreign exchange burden, and the uncertainty of regional supply.

So the question is simply whether we need a longer time to be able to adjust.

Senator Honasan. Mr. President, this issue has also been brought up in a previous interpellation. Again, we are open to a revalidation of the information that the oil companies have also given assurance that they can do it within the specified period. But we would agree in principle that an extended calibrated period for the implementation is also in order and we would welcome this modification during the period of amendments.

to obtain various government permits, to tender bids, to construct, and to commission new facilities.

May I beg the comment of the gentleman on these observations?

Senator Honasan. Yes, Mr. President. As I stated earlier, this agreement of the oil companies is an issue that we have to revalidate in the light of the fact that when we asked the oil companies themselves in consultation with our technical committee, this is what they articulated to us.

So, in the light of the inputs of the lady senator, we will revalidate this information and incorporate this in the amendments, if necessary.

Senator Santiago. Thank you.

Mr. President, my last question concerns Section 44.

Section 44 provides that if any vehicle that has been apprehended for violation of emission standard or for smoke-belching is caught on the road, the vehicle shall be impounded immediately and shall so remain in custody. Should it be shown that there was no violation of the emission standards, the vehicle shall be immediately released.

My concern is that in the past, apparently, there were reported cases where traffic officers would apprehend even newly bought cars. As a result, I am compelled to raise this question. May I know what emission standards would warrant the apprehension of smoke belchers? For example, does the mere sight of dark smoke coming from a vehicle automatically give the traffic officer the authority to stop and impound that vehicle?

Senator Honasan. I would like to thank the lady senator, Mr. President. At the outset, it would be the first indicator that the engine of the vehicle to be apprehended is emitting pollutants. But again, this will all be a function of our ability to impose certain standards through constant monitoring.

It will also be dependent on our ability to fund the purchase of certain monitoring equipment that would validate this initial observation. But in our motor vehicle inspection system or program, I guess this would be nipped in the bud, so to speak, because we would be able to regulate or control this during the registration period of these vehicles. Considering that this is an ideal situation, it will all be a function of our ability to coordinate the mechanism for the imposition and monitoring of these motor vehicle standards.

Senator Santiago. Mr. President, my concern is that Section

44 should not be allowed to facilitate abuse by corrupt traffic officers. Could the gentleman kindly indicate what the elements of Section 44 are that could possibly be used to prevent such abuse by traffic officers?

Senator Honasan. I guess we will have to start by educating through the Presidential Air Quality Commission the personnel involved in imposing the standards. That will give them a clearer idea of these very same standards that we will have to enforce and monitor at the ground level. Among other measures also, Mr. President, is the coordination among the agencies that are involved and we are banking on the fact that these very same standards, provisions and rules will be clarified through the Presidential Air Quality Commission.

Senator Santiago. I am through with my interpellation, Mr. President. I would like to thank the sponsor for his patience and competence in answering them.

Senator Honasan. Thank you, Mr. President.

The President. Thank you, Sen. Miriam Defensor Santiago.

The Majority Leader is recognized.

Senator Drilon. Mr. President, there are no more reservations to interpellate the sponsor on Senate Bill No. 1255. We, therefore, move that we close the period of interpellations on Senate Bill No. 1255 under Committee Report No. 8.

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

SUSPENSION OF CONSIDERATION OF S. NO. 1255

Senator Drilon. We move that we suspend consideration of Senate Bill No. 1255 under Committee Report No. 8.

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

ADJOURNMENT OF SESSION

Senator Drilon. Mr. President, I move that we adjourn our session until three o'clock tomorrow afternoon, November 24, 1998.

The President. Is there any objection? *[Silence]* There being none, the session is adjourned until three o'clock tomorrow afternoon.

It was 6:44 p.m.