

RECORD OF THE SENATE

TUESDAY, OCTOBER 13, 1998

OPENING OF THE SESSION

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

The President. The 26th 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. Rodolfo G. Biazon.

Everybody rose for the prayer.

PRAYER

Senator Biazon.

Almighty God in Heaven, the Good Book says,

"Wicked men are overthrown and are no more, but the house of the righteous stands firm."

We pray that this house will be a house of the righteous; of men and women who will work for what is good for this country.

We pray that You spare this House from the plots of the wicked, the desires of the selfish and the influence of the corrupt.

The Good Book says,

"Reckless words pierce like a sword, but the tongue of the wise brings healing."

We pray for Your wisdom, Heavenly Father, that the words we will utter will bring peace and prosperity to this nation, not useless debate and senseless talk.

We pray for Your blessing that the work we will perform will bring healing to the ills of our country.

Finally, the Good Book says,

"No harm befalls the righteous, but the wicked have their fill of trouble."

We pray for Your protection, Almighty God, that our health will not fail us;

That the enemy's plots will not prosper and that in Your mercy, we will continue in our duties under Your protection and guidance.

At the same time, we commend to You, Lord God, the souls of those who choose to disobey the laws of man and the laws of Heaven. May Your divine judgment bring them to justice and to a fate which they deserve.

We offer this time to You, O Lord, for our country and our people.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, reading:

- Senator Teresa Aquino-Oreta **
Senator Robert Z. Barbers Present
Senator Rodolfo G. Biazon Present
Senator Renato L. Compañero 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. **
Senator Blas F. Ople Present
Senator John Henry R. Osmeña **
Senator Sergio R. Osmeña III Present
Senator Aquilino Q. Pimentel Jr. Present
Senator Ramon B. Revilla Present *
Senator Raul S. Roco **
Senator Miriam Defensor Santiago Present
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad Present
The President Present

The President. With 17 senators present, there is a quorum.

THE JOURNAL

Senator Drilon. Mr. President, I move that we dispense with the reading of the Journal of Session No. 25 and consider it approved.

* Arrived after the roll call
** On official mission

Senator Santiago. Mr. President, let me illustrate my point.

The idea of an Information Technology Agreement that seeks to reduce duties on information technology products to zero is, I admit, very attractive. But I will argue that there are other market access restrictions on exports of information technology products.

For example, export controls. That should be of equally that concern to our country. From that perspective, the Philippines should not be ready to lower import duties on computers like the United States, for example, and other industrial countries are ready to consider reducing other types of restrictions.

I agree that high tariffs on information products could be suicidal for a country like the Philippines. But regulations that keep Filipino businessmen from going to the United States for research and study are also restrictions on access to information technology.

What we have here is a contrariety because on the one hand, industrial countries want free trade and investment in this sector, while developing countries like the Philippines want to know why there should not be free movement of technology and labor.

My question then is: Should we not make concurrence in the ratification of this protocol tied up with freer movement of technology and labor in our developed trading partner country like the United States?

Senator Ople. This is an important point to keep in mind when we negotiate our treaties and agreements, Mr. President. But regarding the competitive situation, I think we should report that all the Asean countries, except for the Philippines, have already ratified the Information Technology Agreement or the ITA. If we do not ratify this agreement, and our closest competitors, our own neighbors in Asean do so, then the cost of the inputs in the manufacture of this product will be higher compared to the cost of our competitors in the Asean region which have already ratified the ITA.

Senator Santiago. Mr. President, last year I learned that the Philippines announced its intention to submit a schedule of tariff reduction by April 1 last year. May I know if that schedule has actually been submitted? I am referring to the schedule of tariff reduction.

Senator Ople. Yes, Mr. President. Our distinguished colleague might be referring to the 235 tariff lines: 186 by the year 2000, and 49 by the year 2005. Forty nine products include input/output storage units, printed circuit assemblies, static converters, line telephone sets, telephone sets, video phones, microphones, diskettes, pagers, aerial antennae, criteria used for sensitive products domestically manufactured.

Those are the sensitive products locally manufactured which are scheduled to go to zero tariff by the year 2005. In the case of the more developed countries, the deadline for them is five years earlier, in the year 2000.

Senator Santiago. Then I must place on record my support for this schedule of tariff reductions which I view as completely necessary. I will conclude this interpellation with a plea to the sponsor if possible to consider the remarks that I made concerning the General Agreement on Trade Services particularly the date of its effectivity.

Thank you, Mr. President.

Senator Ople. They will be taken into full account, Mr. President.

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF P. S. RES. NO. 188

Senator Drilon. There are two of our colleagues in my list who have reserved the opportunity to interpellate the sponsor. These are Senators Francisco S. Tatad and John H. R. Osmeña. May we therefore move to suspend consideration of Proposed Senate Resolution No. 8 under Committee Report No. 5.

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

SPECIAL ORDERS

Senator Drilon. Mr. President, may I move to transfer from the Calendar for Ordinary Business to the Calendar for Special Orders Senate Bill No. 1255 under Committee Report No. 8, entitled

AN ACT PROVIDING FOR A COMPREHENSIVE AIR POLLUTION CONTROL POLICY AND FOR OTHER PURPOSES.

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

BILL ON SECOND READING S. No. 1255—The Philippine Clean Air Act of 1998

Senator Drilon. Mr. President, I move that we consider on Second Reading Senate Bill No. 1255 as reported out under Committee Report No. 8.

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

Consideration of Senate Bill No. 1255 is now in order. With the permission of the Body, the Secretary will read only the title of the bill, without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 1255, entitled

AN ACT PROVIDING FOR A COMPREHENSIVE
AIR POLLUTION CONTROL POLICY AND FOR
OTHER PURPOSES

Senate Bill No. 1255

AN ACT PROVIDING FOR A COMPREHENSIVE
AIR POLLUTION CONTROL POLICY AND FOR
OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* - "Philippine Clean Air Act of 1998."

SEC. 2. *Declaration of Principle.* - Recognizing that the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature is a fundamental right of citizens inextricably linked to their basic right to life and to survive as a people, the State shall guarantee and protect the following rights of all citizens:

- (a) The right to breathe clear air;
- (b) The right to equitably share in the utilization and enjoyment of all natural resources without depriving the future generations of their right to use and enjoy the same;
- (c) The right to participate in environmental policy formulation, planning, management, monitoring and enforcement activities of the State;
- (d) The right to participate in the decision-making process concerning development projects or activities that may have adverse impact on the environment;
- (e) The right to be informed of the nature and extent of potential hazard posed by a project, activity or event.

This shall include the community-right-to-know and be alerted of alarming rise in pollution level; accidental or deliberate release into the atmosphere of harmful or hazardous substances;

(f) The right of access to public or private records necessary for the complete assessment of environmental risks;

(g) The right to bring action in court or quasi-judicial bodies to enjoin all activities in violation of environmental laws and regulations, to compel the rehabilitation and cleanup of affected area, and to seek the imposition of penal sanctions against violators of environmental laws; and

(h) The right to bring action in court for compensation of personal damages resulting from the adverse environmental impact of a project or activity.

SEC. 3. *Declaration of Policies.* - The State shall pursue a policy of balancing development and environmental protection. To achieve this end, the framework for sustainable development shall be pursued. It shall be the policy of the State:

- (a) To formulate a holistic national program of air pollution management that shall be implemented by the government through proper delegation and effective coordination of functions and activities;
- (b) To encourage cooperation and self-regulation among citizens and industries through the application of disincentives and market-based instruments and to promote the role of private judgment of industrial enterprise in shaping its regulatory profile within the acceptable boundaries of public health and environmental protection;
- (c) To focus primarily on pollution prevention rather than control and provide for a comprehensive management program for air pollution;
- (d) To promote public information and education and to encourage the participation of an informed and active public in air quality planning and monitoring; and
- (e) To formulate and enforce a system of accountability for short and long-term adverse environmental impact of a project, program or activity. This shall include the setting up of a funding or guarantee mechanism for clean-up and environmental rehabilitation and compensation for personal damages.

SEC. 4. Definitions: - As used in this Act.

(a) Air pollutant - refers to any matter found in the atmosphere other than oxygen, nitrogen, water vapor, carbon dioxide, and the inert gases in their natural or normal concentrations, and includes smoke, dust, soot, cinders, fly ash, solid particles of any kind, gases, fumes, mists, odors and radio-active substances;

(b) Air pollution - means any alteration of the physical, chemical and biological properties of the atmospheric air, or any discharge thereto of any liquid, gaseous or solid substances that will or is likely to create or to render the air resources of the country harmful, detrimental, or injurious to public health, safety or welfare or which will adversely affect their utilization for domestic, commercial, industrial, agricultural, recreational, or other legitimate purposes;

(c) Alternative technologies - refers to all ecologically safe and non-burn technologies, methods and techniques of dealing with municipal, medical and hazardous waste; such technologies include waste segregation at source, composting and recycling for municipal solid waste; autoclaving, chemical disinfection and microwaving technique among others for infectious waste.

(d) Ambient air quality guideline values - means the concentration of air over specified periods classified as short-term and long-term which are intended to serve as goals or objectives for the protection of health and/or public welfare. These values are not necessarily intended for direct enforcement but only for air quality management purposes such as determining time trends, evaluating stages of deterioration or enhancement of the air quality and in general use as basis for taking positive action in preventing, controlling, or abating air pollution;

(e) Ambient air quality - means the average atmosphere purity as distinguished from discharge measurements taken at the source of pollution. It is the general amount of pollution present in a broad area;

(f) Certificate of conformity - means a certificate issued by the Department of Environment and Natural Resources to a vehicle manufacturer/assembler or importer certifying that a particular new vehicle or vehicle type meets the requirements provided under this Act and its rules and regulations;

(g) Department - refers to the Department of Environment and Natural Resources;

(h) Eco-profile - refers to geographic-based instrument for planners and decision-makers which present an evaluation of the environmental quality and carrying capacity of an area. It is the result of the integration of primary and secondary activities on the land which are evaluated by various environmental risk assessment and forecasting methodologies that enable the Department to anticipate the type of development control necessary in the planning area;

(i) Emission - refers to any air contaminant, pollutant, gas stream or unwanted sound from a known source which is passed into the atmosphere;

(j) Greenhouse gases - refer to those gases that can potentially or be reasonably expected to induce global warming, which include carbon dioxide, methane, oxides of nitrogen, chlorofluorocarbons, and the like;

(k) Hazardous substances - refer to those substances which present either: (1) short-term acute hazards such as acute toxicity by ingestion, inhalation, or skin absorption, corrosivity or other skin or eye contact hazard or the risk of fire explosion; or (2) long-term toxicity upon repeated exposure, carcinogenicity (which in some cases result in acute exposure but with a long latent period), resistance to detoxification process such as biodegradation, the potential to pollute underground or surface waters, or aesthetically objectionable properties such as offensive odors;

(l) Incineration - refers to the process by which chemical compounds from waste materials are converted into innocuous carbon dioxide and water through the process of rapid oxidation. This method is utilized to reduce the volume of solid wastes chemically which includes pyrolysis, gasification and electro-chemical oxidation. Most features include methods of energy recovery through the collection of by-product such as useful gases and excess heat. Waste heat from the incineration process can be utilized to produce electricity commonly referred to as "waste-to-energy process";

(m) Infectious waste - refers to that portion of medical waste that could transmit an infectious disease;

(n) Medical waste - refers to materials generated as a result of patient diagnosis, treatment, or immunization of human beings or animals;

(o) Motor vehicle/mobile source - means any vehicle propelled by or through combustion of carbon-based or other fuel or by means other than human or

animal power, constructed and operated principally for the conveyance of persons or the transportation of property or goods;

(p) Octane Rating or the Anti-Knock Index (AKI) - means the rating of the anti-knock characteristics of a grade or type of automotive gasoline as determined by dividing by two (2) the sum of the Research Octane Number (RON), plus the Motor Octane Number (MON);

(q) Ozone Depleting Substances - are substances that significantly deplete or otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment such, but not limited to, chlorofluorocarbons, halons, etc.;

(r) PM 10 - refers to particulate matters ten (10) microns or less in diameter;

(s) Persistent Organic Pollutants (POPs) - refers to organic compounds that persist in the environment, bioaccumulate through the food web, and pose a risk of causing adverse effects to human health and the environment. These compounds resist photolytic, chemical and biological degradation. Example of POPs include dioxine, furnace, Polychlorinated Biphenyls (PCBs), organochlorine pesticides such as aldrin, dieldrin, DDT, hexachlorobenzene, lindane, toxaphere and chlordane.

(t) Person(s) - refers to any being, natural or juridical, susceptible of rights and obligations or of being the subject of legal relations;

(u) Pollution control device - refers to any device or apparatus used to prevent, control or abate the pollution of air caused by emissions from identified pollution sources at levels within the air pollution control standards established by the Department;

(v) Pollution control technology - refers to pollution control devices, production processes, fuel combustion processes or other means that effectively prevent or reduce emissions or effluent;

(w) Standard of performance - refers to a standard for emissions of air pollutant which reflects the degree of emission limitation achievable through the application of the best system of emission reduction, taking into account the cost of achieving such reduction and any non-air quality health and environment impact and energy requirement which the Department determines, and adequately demonstrates;

(x) Stationary Source - refers to any building or immobile structure, facility or installation which emits or may emit any air pollutant; and

(y) TSP - refers to total suspended particulates in the air.

SEC. 5. *Air Quality Monitoring and Information Network.* - The Department shall prepare an annual National Air Quality Status Report which shall be used as a basis in formulating an Air Quality Improvement Framework Plan, as provided for in Section 8. The said report shall include, but shall not be to the following issues:

a) extent of pollution in the country, per type of pollutant and per type of source, based on reports of the Department's monitoring stations;

b) analysis and evaluation of the current state, trends and projections of air pollution on the national, regional, provincial and municipal levels;

c) identification of critical areas, activities or projects which will need closer monitoring or regulation;

d) recommendations for necessary executive and legislative action; and

e) other pertinent qualitative and quantitative information concerning the extent of air pollution and the environmental performance rating of industries in the country.

The Department, in cooperation with the National Statistical Coordination Board (NSCB), shall design and develop an information network for data storage, retrieval and exchange.

The Department shall serve as the central depository of all data and information related to air quality.

SEC. 6. *Integrated Air Quality Improvement Framework Plan.* - The Department shall establish the policy framework for a comprehensive air pollution management and control program and shall formulate and implement an integrated Air Quality Improvement Action Plan for the prevention, control and abatement of air pollution. The action plan shall:

a) include enforceable emission limitations and other control measures, means, or techniques, as well as

schedules and time tables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act;

b) provide for the establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile, and analyze data on ambient air quality;

c) include a program to provide for the following: (1) enforcement of the measures described in subparagraph (a), (2) regulation of the modification and construction of any stationary source within the areas covered by the plan, in accordance with land use policy, and as necessary to assure that ambient air quality standards are achieved;

d) contain adequate provisions, consistent with the provisions of this Act, prohibiting any source or other types of emissions activity within the country from emitting any air pollutant in amounts which will contribute significantly to the non-attainment or will interfere with the maintenance by the Department of any such ambient air quality standard required to be included in the implementation plan to prevent significant deterioration of air quality or to protect visibility;

e) include control strategies and control measures to be undertaken within a specified time period, including cost effective use of economic incentives, management strategies, collective action, and environment education and information;

f) clarify the legal effects on the financial, manpower and budgetary resources of the affected departments and agencies, and on the alignment of their programs with the plan;

g) designate air quality zones;

h) include all the other measures necessary for the effective control and abatement of air pollution.

In addition to direct regulations, the plan shall be characterized by a participatory approach to the pollution problem. The involvement of private entities in the monitoring and testing of emissions from mobile and/or stationary sources may be considered.

The integrated air quality improvement framework plan shall be adopted as the official blueprint with which all government agencies must comply to attain and maintain ambient air quality standards.

The plan shall be formulated within six (6) months after the effectivity of this Act with the participation of non-government organizations (NGOs), people's organizations (POs), the academe and other concerned entities from the private sector.

SEC. 7. Air Quality Control Zones. - Pursuant to Sec. 6 of this Act, the designation of the Air Quality Control Zone (AQCZ) shall be on the basis of, but not limited to, areas with similar climate, meteorological and topology which affect the interchange and diffusion of pollutants in the atmosphere, or areas which share common interest or face similar development programs, prospects or problems.

For a more effective air quality management, a system of planning and coordination shall be established and a common action plan shall be formulated for each AQCZ. A governing board, hereinafter referred to as the Board, composed of the mayors and governors of the local government units belonging to the AQCZ and representatives of government agencies, PO's and NGO's and the private sector, shall be organized with the Department as head. The functions of the Board shall include:

a) formulation of policies;

b) preparation of a common action;

c) coordination of functions among its members; and

d) annually report and publish an air quality status report of the AQCZ.

The Department shall, from time to time and by utilizing eco-profiling techniques and undertaking scientific studies, and upon consultation with appropriate local government authorities, revise the designation of AQCZ.

SEC. 8. Air Quality Control Action Plan. - Within six (6) months after the formulation of the Framework Plan, local government units (LGU's) with the assistance from the DENR shall prepare and develop an air quality control action plan consistent with the integrated air quality improvement framework plan to attain and maintain the ambient air quality standards within their respective air quality control zone as provided in Sec. 7.

The local government units shall develop and submit to the DENR a procedure for carrying out the action plan

for their jurisdiction. The Department, however, shall maintain its authority to independently inspect the enforcement procedure adopted. The DENR shall have the power to control all or parts of the air quality action plan until such time the local government unit concerned can assume the function to enforce the standards set by the DENR.

A multi-sectoral monitoring team with broad public representation shall be convened by the Department for each LGU to conduct periodic inspections of air pollution sources to assess compliance with the emission limitations contained in their permits.

SEC. 9. Management of Nonattainment Areas. - The Department shall designate areas where specific pollutants have already exceeded ambient standards as nonattainment areas. The Department shall prepare and implement a program that will prohibit new sources of exceeded air pollutant without a corresponding reduction in discharges from existing sources.

The LGUs having jurisdiction over designated non-attainment areas shall prepare, in coordination with the Department for the purpose of improving air quality in the said area, a more stringent program to regulate emission therein. The LGUs, in coordination with other appropriate government agencies shall likewise prepare and implement a program and other measures including relocation, whenever necessary, to protect the health and welfare of residents in the area.

For those designated as nonattainment areas, the Department, after consultation with local government authorities, may revise the designation of such areas and expand its coverage to cover larger areas depending on the condition of the areas.

SEC. 10. Air Quality Control Techniques. - Simultaneous with the issuance of the guideline values and standards, the Department, through the research and development program contained in this Act and upon consultation with the appropriate advisory committees, government agencies and LGUs, shall issue, and from time to time, revise information on air pollution control techniques. Such information shall include:

- a) best available technology and alternative methods of prevention and control of air pollution;
- b) best available technology economically achievable which shall refer to the technological basis/

standards for emission limits applicable to existing, direct industrial emitters of non-conventional and toxic pollutants; and

- c) alternative fuels, processes and operating methods which will result in the elimination of significant reduction of emissions.

Such information may also include data relating to the cost of installation and operation, energy requirements, emission reduction benefits, and environmental impact of the emission control technology.

The issuance of air quality guideline values/standards and information on air quality control techniques shall be made available to the general public. *Provided*, That the issuance of information on air quality control techniques shall not be construed as requiring the purchase of certain pollution control devices by the public.

SEC. 11. Ambient Air Quality Guideline Values and Standards. - The Department, after public consultations and hearings, shall establish ambient air quality guideline values and standards, either on a national or AQCZ level. The Department, in coordination with other concerned agencies, shall review and or revise 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. The initial list and the values of the hazardous air pollutants are included and made an integral part of this Act as Annex "A".

The Department shall issue air quality guideline values for an air pollutant within twelve (12) months after such pollutant has been included in the list. The basis in setting up the ambient air quality guideline values and standards shall reflect, among others, the latest scientific knowledge including information on:

- 1) Variable factors, including atmospheric conditions, which of themselves or in combination with other factors may alter the effects on public health or welfare of such air pollutant;
- 2) The other types of air pollutants which may interact with such pollutant to produce an adverse effect on public health or welfare; and
- 3) The kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantities.

The Department shall base such ambient air quality standards on WHO standards, but shall not be limited to nor be less stringent than such standards.

SEC. 12. Air Pollution Research and Development Program. - The Department, in coordination with the Department of Science and Technology (DOST), other agencies, the private sector, the academe, NGOs and people's organizations, shall establish a National Research and Development Program for the prevention and control of air pollution. The Department shall give special emphasis to research on and the development of improved methods having industry-wide application for the prevention and control of air pollution.

Such a research and development program shall develop air quality guideline values and standards in addition to internationally accepted standards. It shall also consider the socio-cultural, political and economic implications of air quality management and pollution control.

SEC. 13. Lead Agency. - The Department, unless otherwise provided herein, shall be the primary government agency responsible for the implementation and enforcement of this Act. As such, it shall have the following functions, powers and responsibilities:

(a) Establish air quality standards after due consultation with the concerned sectors;

(b) Prepare and implement an integrated framework plan and action plans for air quality management;

(c) Exercise jurisdiction over all aspects of air pollution, determine its location, magnitude, extent, severity, causes, effects and other pertinent information, and to take necessary measures or direct the proper party to take measures, using available methods and technologies to prevent and abate such pollution;

(d) Update itself on the advanced/modern methods of other countries in combating and minimizing air pollution;

(e) Coordinate with the Department of Science and Technology (DOST) and the Department of Energy (DOE) on finding alternative sources of energy for industries and mass transport systems that would rely less on fossil fuel;

(f) Establish a cooperative effort among the national government, local government units, nongovernmental

organizations, people's organizations and the private sector in order to implement the air pollution control management program;

(g) Issue rules and regulations, guidelines or procedures, design criteria governing the preparation of plans and specifications for pollution control device;

(h) Call on any government agency, department, corporation, institution, and other instrumentalities of the government for assistance in the form of personnel, facilities, and other resources, as the need arises in the discharge of its functions;

(i) Formulate policies that will serve as guidelines on the use, transport, storage, disposal, regulation or prohibition of elements proven hazardous to human health, and ecological balance;

(j) Accept assistance, whether financial or otherwise, from any public or private organization: *Provided*, That such assistance shall not result to a conflict of interest;

(k) Disseminate information and conduct educational awareness campaigns on the effects of air pollution on health and environment;

(l) Encourage, participate in and conduct continuing studies, investigations, researches and demonstrations on the effective means of controlling, preventing and managing air pollution including improvement in the implementation strategy, technology or instrumentation; to rationalize the basis of air quality standards;

(m) Encourage the enactment of improved and, as far as practicable, uniform national and local laws relating to air pollution management and control;

(n) Issue order against any person or entity and impose fines, penalties and other administrative or penal sanctions provided by law to compel compliance with air quality regulations and the provisions of this Act; and

(o) Exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Act.

SEC. 14. Linkage Mechanism. - The Department shall consult, participate, cooperate and enter into agreement with other government agencies, or with affected NGOs or POs, or private enterprises in the furtherance of the objectives of this Act.

SEC. 15. *Role of Local Government Units.* - Local government units shall share the responsibility in the management and maintenance of air quality within their territorial jurisdiction. Consistent with Sec. 6 and Sec. 8 of this Act, LGUs may formulate and implement local air quality standards that shall be more stringent than those set by the Department and/or by the Board.

The Department may delegate to the local government units the authority to administer all or some aspects of air quality management and regulation, including but not limited to permit issuance, monitoring, and imposition of administrative penalties, when, upon the Department's determination, the LGU has demonstrated the technical and financial capability to undertake such functions. The Department shall provide the LGUs with technical assistance and trainings and launch a continuing capability-building program to prepare them to undertake full administration of the air quality management and regulation within their territorial jurisdiction. The exercise of such delegated authority shall be under the supervision, review and control of the Department.

SEC. 16. *Environment and Natural Resources Office.* - There shall be established an Environment and Natural Resources Office in every province, city or municipality which shall be headed by the environment and natural resources officer in accordance with the provisions of Section 484 of Republic Act No. 7160. Its powers and duties, among others, are:

(a) To prepare comprehensive air quality management programs, plans and strategies within the limits set forth in Republic Act No. 7160 and this Act which shall be implemented within its territorial jurisdiction upon the approval of the sanggunian;

(b) To provide technical assistance and support to the governor or mayor, as the case maybe, in carrying out measures to ensure the delivery of basic services and provision of adequate facilities relative to air quality;

(c) To take the lead in all efforts concerning air quality protection and rehabilitation;

(d) To recommend local air quality standards which shall not exceed the maximum permissible standards set by the national laws;

(e) To coordinate with other government agencies and non-governmental organizations in the

implementation of measures to prevent and control air pollution; and

(f) Exercise such other powers and perform such duties and functions as may be prescribed by law or ordinance.

SEC. 17. *Record-keeping, Inspection, Monitoring and Entry by the Department of Environment and Natural Resources (DENR).* - The Department or its duly accredited entity shall, after proper consultation and notice, require any person who owns or operates any emission source or who is subject to any requirement of this Act to (a) establish and maintain such records, (b) make such reports, (c) install, use and maintain such monitoring equipment or method, (d) sample such emission, in accordance with such method, at such location, at such interval, and in such manner as the Department shall prescribe by regulation, (e) keep records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical and, (f) provide such other information as the Department may reasonably require.

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.

SEC. 18. *Report to Congress.* - The Department shall report to Congress, not later than March 30 of every year following the approval of this Act, the progress of the pollution control efforts and make the necessary recommendations in areas where there is need for legislative action.

SEC. 19. *Public Education and Information Campaign.* - A continuing air quality information and education campaign shall be promoted by the Department, the Department of Education, Culture and Sports (DECS), the Department of the Interior and Local Government (DILG), the Department of Agriculture (DA) and the Philippine Information Agency (PIA). Consistent with Sec. 5, such campaign shall encourage the participation of other government agencies and the private sector including NGOs, POs, the academe, the

environmental groups and other private entities in a multi-sectoral information campaign.

SEC. 20. *Permits.* - Consistent with the provisions of this Act, the Department shall have the authority to issue permits as it may determine necessary for the prevention and abatement of air pollution.

Said permits shall cover emission limitations for the regulated air pollutants to help attain and maintain the ambient air quality standards. These permits shall serve as management tools for the LGUs in the development of their action plan.

SEC. 21. *Emission Charge System.* - The Department shall, based on environmental valuation techniques design, impose and collect regular emission fees on industrial dischargers as part of the emission permitting system. The system shall encourage the industries to abate, reduce, neutralize, recycle, reuse, minimize, or prevent pollution. The basis of the fees include, but is not limited to, the volume and toxicity of emitted pollutant.

SEC. 22. *Emission Quotas.* - The Department may allow each regional industrial center that is designated as special zone to allocate emission quotas to pollution sources within the jurisdiction that qualify under an environmental impact assessment system programmatic compliance program as provided in the implementing rules and regulations of P.D. 1586.

SEC. 23. *Financial Liability for Environmental Rehabilitation.* - As part of the environmental management plan attached to the environmental compliance certificate pursuant to P.D. No. 1586 and rules and regulations set therefor, the Department may require program and project proponents to put up financial guarantee mechanisms to respond to the needs for emergency response, clean-up or rehabilitation of areas that may be damaged during the program or project's actual implementation. Liability for damages shall continue even after program or project termination, where such damages are clearly attributable to the program or project and for a definite period to be determined by the Department and incorporated into the environmental compliance certificate.

Financial liability instrument may be in the form of a trust fund, environmental insurance, surety bonds, letters of credit, as well as self-insurance. The choice of the guarantee instrument or combinations thereof shall depend, among others, on the assessment of the risks involved. Proponents required to put up guarantee

instruments shall furnish the Department with an evidence of availment of such instruments.

SEC. 24. *Pollution from Stationary Sources.* - The Department shall establish emission standards for all stationary sources of air pollution, based on mass rate of emission, within one (1) year from the date of enactment of this Act. The standards shall set limit on the acceptable level of pollutants emitted from a stationary source for the protection of public health and welfare.

As provided in Sec. 7 of this Act, the Department shall prepare a detailed action plan setting the emission standards or standards of performance for any stationary source, the procedure for testing emissions for each type of pollutant, and the procedure for enforcement of said standards. The emission standards for stationary sources of air pollution will be reviewed and/or revised and published every two (2) years, or as the need arises.

For existing industries, the Department shall allow a grace period of one (1) year for the establishment of an environmental management system and the installation of an air pollution control device acceptable to both the Department and the owner concerned.

SEC. 25. *Open Burning and Incineration.* - The open burning of refuse by any person, whether in private dumpsites of commercial or industrial establishments or in public dumpsites of local government units and agencies, is hereby declared illegal. Local government units are hereby mandated to promote, encourage and implement in their respective jurisdiction a comprehensive ecological waste management that includes waste segregation, recycling and composting.

Likewise, the construction and operation of incinerators including combustion-based waste-to-energy facilities dealing with municipal, medical and hazardous wastes shall be prohibited. Instead, long-term and more environmentally friendly approaches to the waste problem, shall be promoted. In the case of infectious and pathological wastes, the development and use of safer alternatives, particularly non-burn technologies shall be encouraged. With respect to existing bio-medical waste incinerators such incinerators shall be phased-out within three (3) years after the approval of this Act. In the interim, such units shall be limited to the burning of pathological and infectious wastes, and subjected to close monitoring by the Department.

The Department shall promote the use of approaches

to prevent the generation of hazardous waste including, but not limited to, source reduction, clean production, toxics-use reduction, and waste elimination in production processes. In the interim, the Department shall encourage the use of safer treatment and destruction technologies instead of incineration for the disposal of hazardous waste.

SEC. 26. Pollution from Motor Vehicles. - a) The Department shall set emission standards for all vehicles. It shall consider the maximum limits for all major pollutants to ensure substantial improvement in air quality for the health, safety and welfare of the general public.

b) The Department of Transportation and Communications (DOTC), in collaboration with the Department of LGUs, shall develop an action plan for the control and management of air pollution from mobile sources consistent with the Integrated Air Quality Improvement Framework Plan. As further outlined in its regulations, or through its duly accredited entities, the DOTC shall enforce compliance with the emission standards for motor vehicles set by the Department. The DOTC may deputize other law enforcement agencies and the LGUs for this purpose. To this end, the DOTC shall have the power to:

(1) Inspect and monitor the emissions of all mobile sources of pollution such as motor vehicles, trains, ships, airplanes and other similar sources;

(2) Prohibit or enjoin the use of motor vehicles or a class of motor vehicles in any area or street at specific times; and

(3) Authorize private emission testing centers duly accredited by the Department of Trade and Industry (DTI).

c) The DOTC, together with the DTI and the Department, shall establish the procedures for the inspection of mobile sources of pollution, including gasoline and diesel-fueled vehicles, and the testing of their emissions for the purpose of determining the concentration and/or rate of emission of pollutants discharged by said sources. The DOTC shall also authorize private inspection centers.

d) In order to ensure the substantial reduction of emissions from motor vehicles the DTI, together with the DOTC and the Department, shall formulate and implement a national motor vehicle inspection and maintenance

program that will promote efficient and safe operation of all vehicles. In this regard, the DTI shall develop and implement standards and procedures for the certification of training institutions, instructors and facilities and the licensing of qualified private service and repair centers and their technicians as prerequisite for performing the testing, servicing, repair and the required adjustment to the vehicle emission system. The DTI shall likewise prescribe regulations requiring the disclosure of odometer readings and the use of tamper-resistant odometers for all motor vehicles including tamper-resistant fuel management systems for the effective implementation of the inspection and maintenance program.

SEC. 27. Pollution from Other Mobile Sources. - The Department, in coordination with the appropriate agencies, shall formulate and establish the necessary standards for all other mobile sources other than those referred to in Sec. 26 of this Act. The imposition of the appropriate fines and penalties from these sources for any violation of emission standards shall be under the jurisdiction of the DOTC.

SEC. 28. Regulation of All Motor Vehicles and Engines. - Any imported new and used vehicle or engine shall not be registered unless it complies with the emission standards set pursuant to this Act, as evidenced by a Certificate of Conformity (COC) issued by the Department or any authorized emission testing facility.

In case of non-compliance, the importer or consignee may be allowed to modify or rebuild the vehicle or engine so that it will be in compliance with applicable emission standards.

Any imported new motor vehicle as well as locally assembled new motor vehicle shall not be registered and operated on any public highway or sold until the importer/assembler can present a COC. Any imported used motor vehicle as well as rebuilt motor vehicle with used engine shall be issued a COC by the importer/assembler prior to selling, registration, and operation on any public highway.

No in-use vehicle shall be re-registered unless it passes the emission testing requirement conducted by the DOTC or its authorized inspection centers valid within sixty (60) days to the date of registration.

Such report shall certify that the vehicle meet the emission requirements of this Act and the rules and regulations promulgated therefor.

The regulations shall prescribe the useful life of vehicles and engines including devices for purposes of controlling their emissions to acceptable levels.

SEC. 29. *Aircraft Noise.* - Community noise standards around airports shall be implemented by the Air Transportation Office in coordination with the Department.

SEC. 30. *Standards for Noise, Vibration and Odor Levels.* - The Department shall establish acceptable levels of noise, vibration and odor based on scientific criteria from all sources to protect public health and welfare.

SEC. 31. *Fuels and Additives.* - In order to further support the emission reduction objective of the inspection and maintenance program and other control measures, the Department, in consultation with the Bureau of Product Standards (BPS) of the DTI, the DOE, the DOST, the representatives of the fuel and automotive industries and the consumers, shall set the specifications of all types of fuel and fuel-related products with the objective of improving fuel composition in terms of increased efficiency and reduced emissions.

The Department, shall also specify the allowable content of additives in all types of fuels and fuel-related products. Such standards shall be based primarily on threshold levels of health and research studies. On the basis of such specifications, the Department, through the EMB, shall likewise limit the content or begin the phase-out of contaminants and additives in all types of fuels and fuel-related products as it may deem necessary. Other agencies involved in the performance of this function shall be required to coordinate with the Department and transfer all documents and information necessary for the implementation of this provision.

It is, therefore, declared that:

a) no later than eighteen (18) months after the effectivity of this Act, no person shall manufacture, sell, supply, offer for sale, dispense, transport or introduce into commerce unleaded gasoline fuel with a regular anti-knock (AKI) of 87.5; By year 2003, unleaded gasoline fuel should contain aromatics not to exceed twenty-five percent (25%) and benzene not to exceed one percent (1%);

b) no later than eighteen (18) months after the effectivity of this Act, 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 of 55, and not later than January 1, 2003, the content of sulphur in automotive diesel fuel shall be limited to 0.05%;

c) no later than eighteen (18) months after the effectivity of this Act, no person shall manufacture, sell, supply, offer for sale, dispense, transport or introduce into commerce industrial diesel fuel which contains a concentration of sulfur in excess of 0.30% (by weight).

No later than eighteen (18) months thereafter, the specifications of unleaded gasoline and of automotive and industrial diesel fuels shall be reviewed for further improvement in formulation and in accordance with the provisions of this Act.

The fuels characterized above shall likewise be the reference fuels and be commercially available with regard to emission and testing procedures to be established in accordance with the provisions of this Act.

After the date of the enactment of this Act, any person proposing to register any gasoline additive or to use any previously registered additive may elect to register the additive as a lead substitute gasoline additive for reducing the valve seat wear by providing the Department with such relevant information regarding product identity and composition as the Department deems necessary for conducting tests to determine the potential public health effects of such additive and furnishing the description of the analytical technique that can be used to detect and measure it in any fuel, and the recommended range of concentration and purpose in the use of the additive. No organo-metallic additive shall be allowed.

Any proposed additive shall not in any way increase emissions of any of the regulated gases: carbon monoxide, hydrocarbons, and oxides of nitrogen, including particulate matter, in order to be approved and certified by the Department.

SEC. 32. *Regulation of Fuels.* - The Department of Energy (DOE), in coordination with the Department and the BPS, shall regulate the use of any fuel or fuel additive. No manufacturer or processor of any such fuel or additive may sell, offer for sale, or introduce into commerce such fuel or additive unless these agencies have registered such fuel or additive. The regulations shall specify

registration and testing requirements and a description of analytical techniques to be used.

SEC. 33. *Misfueling.* - In order to prevent the disabling of catalytic converters by lead contamination, no person shall introduce or cause or allow the introduction of leaded gasoline into any motor vehicle which is labeled "unleaded gasoline only", which is equipped with a gasoline tank filler inlet designed for the introduction of unleaded gasoline, or which person knows or should know is a vehicle designed solely for the use of unleaded gasoline.

SEC. 34. *Prohibition on Manufacture, Import and Sale of Leaded Gasoline and of Engines and/or Components Requiring Leaded Gasoline.* - Effective not later than eighteen (18) months after the enactment of this Act, no person shall manufacture, import, sell, offer for sale and introduce into commerce, convey or otherwise dispose of in any manner engines and components requiring the use of leaded gasoline. The DTI shall formulate standards and procedures that would allow non-conforming engines to comply with the use of unleaded fuel.

SEC. 35. *Ozone-Depleting Substances.* - Consistent with the terms and conditions of the Montreal Protocol on Substances that Deplete the Ozone Layer and other international agreements and protocols to which the Philippines is a signatory, the Department shall phase-out ozone-depleting substances.

Within sixty (60) days after the enactment of this, the Department, through the EMB, shall publish a list of substances which are known to cause harmful effects on the stratospheric ozone layer. An initial list of the aforementioned substances, including their year of phaseout is attached to this Act as "Annex B" and is made an integral part hereof. The Department shall periodically review and/or revise the said list.

SEC. 36. *Greenhouse Gases.* - The Philippine Atmospheric, Geophysical and Astronomical Service Administration (PAGASA) shall monitor regularly meteorological factors affecting environmental conditions including ozone depletion and greenhouse gases and coordinate with the Department in order to effectively guide air pollution monitoring and standard-setting activities.

The Department, together with concerned agencies and LGUs, shall prepare an action plan consistent with

international conventions and agreements on the reduction of greenhouse gas emission in the country.

SEC. 37. *Persistent Organic Pollutants.* - The Department shall develop a long-term national government program on the reduction and elimination of persistent organic pollutants (POPs) such as dioxins and furans. The Department shall within a period of two (2) years after the enactment of this Act shall establish an inventory list of sources and POPs in the country.

SEC. 38. *Radioactive Emissions.* - All projects which will involve the use of atomic and/or nuclear energy and would entail release and emission of radioactive substances into the environment, incident to the establishment or possession of nuclear energy facilities and radioactive materials, handling, transport, production, storage, and use of radioactive materials shall be regulated by the Philippine Nuclear Research Institute (PNRI), in coordination with the Department and other appropriate government agencies.

SEC. 39. *Citizen Suits.* - Any citizen may initiate a special civil action in the regular courts:

a) Against any person who violates or fails to comply with the provisions of this Act or its implementing rules and; or

b) With respect to any order, rule or regulation issued by the agencies implementing this Act which are inconsistent herewith.

c) Against any public officer who willfully or grossly neglects the performance of an act which this Act and its implementing rules and regulations specifically enjoins as a duty, abuses his authority in the performance of his duty, or in any other manner improperly performs his duties under this Act and its implementing rules and regulations.

Said action shall be heard within forty-eight (48) hours from filing if there is an allegation that such neglect of duty, abuse of authority, or improper performance of function constitutes a risk to public health or safety. Such civil action may proceed independently and shall be without prejudice to any administrative or criminal action that may be filed under the circumstances.

SEC. 40. *Independent Civil Action.* - The fines imposed herein by the appropriate agency shall not preclude the filing of claims in court for the payment

by the violator of damages to the affected communities for the pollution of the environment and its attendant effects, foreseeable or otherwise. Such civil action shall proceed independent of any administrative and/or criminal action.

SEC. 41. *Administrative Action.* - Without prejudice to the right of any affected person to file an administrative action, the Department, in the exercise of its powers and functions under this Act, shall institute administrative proceedings against any person who violates the:

- a) Standards or limitation provided under this Act; or
- b) Any order, rule or regulation issued by the Department with respect to such standard or limitation.

The filing of an administrative suit against such person/entity does not preclude the right of any other person to file any criminal or civil action for damages arising from the same act.

SEC. 42. *Lien Upon Personal and Immovable Properties of Violators.* - Fines and penalties imposed pursuant to this Act shall be liens upon personal and immovable properties of the violator. Such lien shall, in case of insolvency of the respondent violator, enjoy preference subsequent to laborer's wages under Article 2241 and 2242 of Republic Act No. 386, otherwise known as the New Civil Code of the Philippines.

SEC. 43. *Penalties for Violation by Stationary Sources.* - For actual or imminent exceedance of any pollution or air quality standards under this Act or its rules and regulations, the Pollution Adjudication Board (PAB) shall impose a fine of not more than One hundred thousand pesos (P100,000.00) for every day of violation.

For purposes of the application of the fines, the Pollution Adjudication Board shall prepare a fine rating system to adjust the maximum fine based on the violator's ability to pay, degree of willfulness, degree of negligence, history of noncompliance and degree of recalcitrance.

The fines herein prescribed shall be increased by at least ten percent (10%) every three (3) years to compensate for inflation and to maintain the deterrent function of such fines.

In addition to these fines, the PAB shall order the closure, suspension of development or construction of operations of the stationary source until such time that proper environmental safeguards are put in place;

Provided, That an establishment found liable for a third offense shall suffer permanent closure immediately. This paragraph shall be without prejudice to the immediate issuance of an *ex parte* order for such closure, suspension of development or construction, or cessation of operations during the pendency of the case upon prima facie evidence that there is imminent threat to life, public health, safety or general welfare, or to plant or animal life, or whenever there is an exceedance of the emission standards set by the Department and/or the Board and/or the appropriate LGU.

SEC. 44. *Violation of Standards for Motor Vehicles.* - No motor vehicle shall be registered with the DOTC unless it meets the emission standards set by the Department for motor vehicles as provided for in Sec. 26 of this Act.

If any vehicle that has been apprehended for violation of emission standards 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. Otherwise, a testing result indicating an exceedance of the emission standards would warrant the continuing custody of the impounded vehicle unless the appropriate penalties are fully paid, and the license plate is surrendered to the DOTC pending the fulfillment of the undertaking by the owner/operator of the motor vehicle to make the necessary repairs so as to comply with the standards. A pass shall herein be issued by the DOTC to authorize the use of the motor vehicle within a specified period that shall not exceed seven (7) days for the sole purpose of making the necessary repairs on the said vehicle. The license plate shall only be released by the DOTC or the duly authorized testing center upon a final determination that the vehicle is in compliance with the standards.

For violations under this provision, the following penalties shall apply:

- a) First offense - a fine not to exceed ten thousand pesos (P10,000);
- b) Second offense - a fine not less than Ten thousand pesos (P10,000) and not to exceed Twenty thousand pesos (P20,000); and
- c) Third offense - one (1) year suspension of the Motor Vehicle Registration Receipt (MVRR) and a fine of not less than Twenty thousand pesos (P20,000) and not more than Thirty thousand pesos (P30,000).

Any violation of the provisions of Sec. 25 paragraph (d) shall be penalized with a fine of not less than Thirty thousand pesos (P30,000) or cancellation of license of both the technician and the center, or both, as determined by the DTI.

SEC. 45. Gross Violations. - In case of gross violation of this Act, the PAB shall recommend to the proper government agencies to file the appropriate criminal charges against the violators. The PAB shall assist the public prosecutor in the litigation of the case. Gross violation shall mean: (a) three (3) or more specific violation within a period of one (1) year; (b) three (3) or more specific offenses within any given three (3) year period; (c) blatant disregard of the orders of the PAB, such as but not limited to the breaking of seal, padlocks and other similar devices, or operating despite the existence of an order for closure, discontinuance or cessation of operation and (d) irreparable or grave damage to the environment as a consequence of any violation or omission of the provisions of this Act.

Offenders shall be punished with imprisonment of not less than six (6) years but not more than ten (10) years at the discretion of the court. If the offender is a juridical person, the president, manager or the pollution control officer shall suffer the penalty herein provided.

SEC. 46. Award of Damages. - The PAB may also award such amount that is necessary for clean-up and rehabilitation for the area.

SEC. 47. Air Quality Management Fund. - An Air Quality Management Fund to be directly administered by the Department as a special account in the National Treasury is hereby established to finance containment, removal, and clean-up operations of the Government in air pollution cases, guarantee restoration of ecosystems and rehabilitate areas affected by the acts of violators of this Act, to support research, enforcement and monitoring activities and capabilities of the relevant agencies, as well as to provide technical assistance (to the relevant agencies).

The fund shall be sourced from the fines imposed and damages awarded to the Republic of the Philippines by the Pollution Adjudication Board, proceeds of licenses and permits issued by the Department under this Act, emission fees and from donations, endowments and grants in the forms of contributions. Contributions to the Fund shall be exempted from donor taxes and all other taxes, charges or fees imposed by the Government.

SEC. 48. Appropriations. - The amount of Four hundred twenty million pesos (P420,000,000) shall be appropriated to the Department for the procurement of air quality monitoring equipment necessary for the implementation of this Act. This amount shall be taken from the revenues of annual registration of vehicles in the DOTC.

The amount of Two hundred million pesos (P200,000,000) shall likewise be appropriated to the DTI. This amount shall be in addition to the annual appropriations of the DTI.

Thereafter, the amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act of subsequent years.

SEC. 49. Implementing Rules and Regulations. - The Department shall promulgate the implementing rules and regulations for this Act, including those covered within one (1) year after the enactment of this Act: *Provided*, That rules and regulations issued by other government agencies and instrumentalities for the prevention and/or abatement of pollution not inconsistent with this Act shall supplement the rules and regulations issued by the Department, pursuant to the provisions of this Act.

SEC. 50. Separability of Provisions. - If any provision of this Act or the application of such provision to any person or circumstances is declared unconstitutional, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

SEC. 51. Repealing Clause. - P.D. No. 1181 is hereby repealed. P.D. Nos. 1152, 1586, P.D. No. 984 are partly modified. All other laws, orders, issuance, rules and regulations inconsistent herewith are hereby repealed or modified accordingly.

SEC. 52. Effectivity Clause. - This Act shall take effect fifteen (15) days from the date of its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,

Senator Drilon. Mr. President, may we ask the Chair to recognize Sen. Gregorio B. Honasan to sponsor the measure.

The President. Sen. Gregorio B. Honasan is recognized for his sponsorship speech.

SPONSORSHIP SPEECH OF SENATOR HONASAN

Mr. President, my distinguished colleagues:

I rise to commend to this Chamber "An Act Providing for a Comprehensive Air Pollution Control Policy, and for Other Purposes" whose short title is the "Philippine Clean Air Act of 1998", and whose authors are Senators Flavier, Jaworski, Legarda-Leviste, Osmeña, Enrile and Aquino-Oreta.

I ask that it be approved in substitution of Senate Bill No. 9 introduced by Senator Flavier, Senate Bill No. 864 authored by Senator Jaworski, and Senate Bill No. 912 sponsored by Senator Legarda-Leviste.

The Clean Air Act of 1998, Mr. President, ensures people's right to breathe clean air.

It recognizes people's right to live with a balanced and healthful ecology and in accord with the rhythm and harmony of nature.

This Act, Mr. President, accepts as a principle people's right to share equitably in the use and enjoyment of all natural resources: people's right to take part in decision-making that concerns development activities which may impact adversely on the environment; people's right of access to public or private records necessary for the assessment of environmental risks; and people's right to bring to court for compensation of personal damages resulting from the adverse impacts on the environment of a project or activity.

This Act, Mr. President, binds the Philippine State to a policy of preventing pollution and not just controlling it.

This Act compels the State to balance development and environmental protection. And it charges the State with the task of formulating a holistic national program of air pollution management, and enforces a system of accountability for the adverse impact on the environment of any project, program or activity.

This responsibility of the State, Mr. President, shall include setting up a funding or guarantee mechanism for cleaning up environmental disaster and compensation for personal damage.

The Environmental Disaster that is Metro Manila

Mr. President, this Chamber needs to act urgently on this Clean Air Act, because just right here in Metropolitan Manila, we all live and work amid an environmental disaster area, apart, of course, from the ensuing effects of unbalanced development in other major urban areas of the country.

In 1990, Mr. President, Metro Manila was named one of the 20 most-polluted megacities in the globe. We earned the dubious distinction by the very poor quality of our atmosphere even then, into which was discharged approximately one million tons of pollutive emissions every year.

Of those hazardous pollutants, carbon monoxide, sulfur dioxides, lead, and total suspended particulates are the most numerous, their levels being three times more than the World Health Organization considers safe in ambient air. Ambient air, Mr. President, refers to the average atmosphere purity as distinguished from discharged measurements taken at the source of pollution. It is the general amount of pollution present in a broad area.

That study was conducted eight years ago, Mr. President. In 1996, which is the most recent, the Metro Manila Report of a World Bank study entitled, *Urban Air Quality Management Strategy in Asia*, concludes that the annual total suspended particulate concentrations in the metropolis are frequently five times higher than World Health Organizations Air Quality Guidelines.

Studies made by our government have also made a similar conclusion. Monitoring reports of the Department of Environment and Natural Resources show that the air quality in the metropolis is below the minimum standards set by the government and by the World Health Organization.

While we have confined ourselves to Metro Manila, it does not mean air pollution is confined only to this area. Pollution in the air, knows no territorial boundaries.

Mr. President, the adverse impact of high levels of air pollution on people's health is well-documented in medical literature.

From hydrocarbons and such polynuclear aromatic hydrocarbons (PAHs) and benzene, the range of ailments rises from allergies and asthma to lung cancer.

From exposure to lead present in types of gasoline, the side effects range from poor concentration to endemic fatigue and nervous disorder, especially in young children.

Lead is a toxin that attacks the nerves and it may cause encephalitis or inflammation of the brain and death. A study done in 1984 found that children aged 4 months to 14 years living in Metro Manila's slum areas had a prevalence rate of 30 micrograms of lead in each deciliter of blood.

That level, Mr. President, is three times the "safe" level set by the U.S. Center for Disease Control.

To add, Mr. President, statistics from the Department of Health show that air pollution does have a harmful effect on health and that it can be a cause for death in the long run.

Based on the latest health statistics (1995), about 215 persons die in a day from respiratory illness equivalent to about 78,746 total deaths in a year. It can be assumed that for most of these cases, infectious or acquired lung disease can be directly or indirectly aggravated by poor air quality and exposure to pollutants.

A more direct statistics, as reported by the Office of Public Health Services of the Department of Health, shows that 49 persons die in a day from non-communicable chronic obstructive pulmonary disease and other related respiratory illnesses like asthma and emphysema equivalent to about 18,056 deaths each year. There is more evidence, Mr. President, to show that these types of diseases are directly adversely affected by poor air quality and exposure to pollutants.

Yet, since then, the quality of our air has merely deteriorated even more. The major sources of pollution--motor vehicles, electric power plants, and smokestack industries--have grown in quantum terms, alongside the leap in economic growth over the past five years or so.

And, despite government's efforts to control air pollution, the problem continues to worsen--given intensifying industrialization, the increasing number of motor vehicles which includes poorly maintained motor vehicles and higher population densities.

Institutional Interventions

Mr. President, while our country has many environmental laws, many of these laws remain unenforced. One reason for this is the defective structure of the Department of Environment and Natural Resources, whose environmental management function has for the most part been neglected.

Another problem, Mr. President, is that of confusion over jurisdiction which is more visible in the environmental management of Laguna Lake, which has historically been the object of rivalry between the DENR, its Environmental Management Bureau and the Laguna Lake Development Authority.

This Act sorts out these structural defects and jurisdictional quarrels among our environmental agencies.

Fairly recently, Mr. President, Executive Order No. 16 was signed on August 21, 1998 by President Joseph Ejercito Estrada creating the Presidential Air Quality Commission. The Commission was established to coordinate and effectively implement air quality management policies, programs and laws. Such executive action on the part of the President also tells us the serious efforts of the President to address the problem of air pollution in the country today.

It makes the Department of Environment and Natural

Resources primarily accountable for carrying out and enforcing its purposes and end-goals.

It enjoins the DENR to establish a comprehensive policy framework for the management and control of air pollution in accordance with an integrated Air Quality Improvement Action Plan which is spelled out in Section 6.

Air Quality Control Zones, or interestingly termed among environmentalists as "airsheds," will become the basis of the system of planning and coordination the Act envisions. These Zones, Mr. President, are designated in accordance with climatic, topographical and other natural characteristics that affect air pollution, rather than political jurisdictions.

This kind of decentralization will enable local government units and local communities who are after all the parties most concerned to take part in cleaning up and preserving the quality of their portion of our ambient air. Guideline values and standards of ambient air quality, Mr. President, will be established either on a national basis or on the level of the Air Quality Control Zones.

And the DENR may delegate to local government units the authority to administer all or some aspects of air quality management and regulation when it determines the specific local government units to have demonstrated the technical and financial ability to do so.

In areas where specific pollutants already exceed ambient air standards, Mr. President, the DENR will prepare and carry out a program that will prohibit new sources of the exceeded air pollutant without a corresponding reduction in discharge from the existing sources.

The Clean Air Act, Mr. President, also requires any person who owns or operates any emission source to install and to maintain monitoring equipment or method to sample such emissions and to provide this information to the DENR.

The DENR shall have the right of entry into any premise where a source of emission is housed, and may have access to any relevant record; inspect any source of pollution and test any emission.

Immediate Interventions

Mr. President, to ease our air pollution problems, the Clean Air Act mandates local government units to promote, encourage and implement in their respective jurisdictions a comprehensive ecological waste management that includes waste segregation, recycling and composting.

The DENR will immediately set emission standards for all

motor vehicles, considering the maximum limits for all major pollutants.

In collaboration with the DENR and LGUs, the Department of Transportation and Communications shall develop an action plan for the control and management of air pollution from mobile sources consistent with the policy framework plan the DENR will be preparing. The DOTC will also enforce compliance with the emission standards for motor vehicles set by the policy framework plan.

The DENR, in consultation with the Bureau of Product Standards of the Department of Trade and Industry, the Department of Energy and the Department of Science and Technology, and with representatives of the fuel and automotive industries and consumers will set the specifications for all types of fuels and fuel-related products to improve fuel composition in terms of both efficiency and reduced emissions.

The Act envisions, Mr. President, that leaded gasoline will have been phased out within 18 months after its effectivity. The use of unleaded gasoline has scientifically been proven to significantly improve air quality. Since the introduction of low-leaded gasoline in 1993 and unleaded gasoline in early 1994, levels of lead in the air have improved in all DENR-monitored areas in Metro Manila.

Likewise, Mr. President, the Act specifies the allowable content of additives in all types of fuels and fuel-related products. Sulphur content will be limited to only 0.20 percent within 18 months after the effectivity of the Act and will be further reduced to 0.05 percent by the year 2003. As for industrial fuel, sulfur content will have been reduced to 0.30 percent within 18 months after its effectivity. By the year 2003, unleaded gasoline fuel should contain aromatics not to exceed twenty-five percent (25%) and benzene not to exceed one percent (1%). Neither does the Act neglect the problem of noise pollution, the depletion of the ozone layer, the problem of greenhouse gases, of persistent organic pollutants, and the release of radioactive substances in the environment.

Penalties, Funding, Implementing Rules

This Act, Mr. President, also raises substantially the penalties for any pollution or exceeding of air-quality standards. It authorizes the Pollution Adjudication Board to impose a maximum fine of P100,000 for every day of violation.

It also prohibits the registration of any vehicle that fails to meet set emission standards.

Finally, Mr. President, the Act establishes an Air Quality Management Fund that will be used for cleaning up, emergency

response and rehabilitation of pollution; appropriates P420 million to the DENR for the procurement of air-quality monitoring equipment; and P200 million to the DTI for support to the coordinating mechanisms that will allow the Bureau of Product Standards of the DTI, the DOE, the DOST, the representatives of the fuel and automotive industries and the consumers--to set the specifications of all types of fuel and fuel-related products with the aim of improving fuel composition in terms of increased efficiency and reduced toxic emissions.

Mr. President, elected officials are normally restricted in their time-horizon by the electoral cycle--which extends no farther than three or six years. But in deliberating on this Act, we in this Chamber have the chance to start off a train of events that will affect not only our own generation but those of future Filipinos.

Early on, Mr. President, I referred to a clinical study done in 1984, which found Metro Manila slum children to have three times the "safe" level of lead in their bloodstreams. Similar studies done in the United States, correlate lead-blood levels to intelligence quotients. All those slum-children examined in 1984 showed slight cognitive impairment.

In terms of exposure to air pollutants, Mr. President, studies done by the University of the Philippines College of Public Health show that children are at the greatest risk of adverse health effects from systemic poisons present in our ambient air.

In a word, Mr. President, our urgent approval of this Act will save young generations that are at risk. In acting positively on this bill, we shall be acting in representation of the Filipino future which is part of our true constituency as statesmen and women of this country.

Thank you, Mr. President.

The President. Thank you, Senator Honasan.

Senator Drilon. Mr. President, we would like to thank the gentleman, Sen. Gregorio B. Honasan, for that sponsorship speech.

Indeed, Mr. President, clean air knows no political affiliations, and it is for this reason that signifying his intention to deliver a cosponsorship speech is Sen. Juan Flavies; after which, he will be followed by another cosponsorship speech by Sen. Robert Jaworski; and after Senator Jaworski, another cosponsorship speech again by a member of the Minority, Sen. Loren Legarda-Leviste.

I was just wondering how our Minority Leader would proceed with this task of interpellating on this bill. In any case, Mr. President, may we now ask the Chair to recognize Sen. Juan Flavies.

The President. Sen. Juan Flavier is recognized.

Senator Flavier. Thank you, Mr. President.

SPONSORSHIP SPEECH OF SENATOR FLAVIER

Senator Flavier. Mr. President, at the outset, may I congratulate my friend, Sen. Greg Honasan as principal sponsor for that excellent and comprehensive sponsorship speech.

As a coauthor of the Clean Air Act, may I add a brief statement in support of this measure, which this representation considers a landmark piece of legislation.

As everyone will recall, both Houses of Congress in the Tenth Congress passed this bill on Third Reading. A bicameral report was even made and ratified by the Senate. But for some reasons, our counterpart in the other Chamber failed to do the same. I hope that this Eleventh Congress will finally approve this bill.

Mr. President, we do not need dramatic cases of air pollution-induced-diseases and deaths to illustrate the necessity of this measure. As legislators, we do not need any more mortality and morbidity figures to convince us to pass a measure that, by compelling evidence, have shown that we are heading toward unmitigated disaster.

Mr. President, as our Chairman of the Committee on Environment and Natural Resources, Sen. Greg Honasan, has pointed out, the state of the nation's environment has deteriorated to a point where Metro Manila was found to have five times higher annual Total Suspended Particulate (TSP) than the World Health Organization Air Quality Standards. The situation has its health, economic and social costs as well as ecological implications.

Health Costs of Air Pollution

Numerous scientific studies both in the Philippines and abroad show that the absorption of chemicals such as lead poses very serious health hazards to children as well as adults. Sulfate and particulate air pollution have been found to contribute to increased mortality rates due to lung cancer and other cardio-pulmonary causes.

According to a US Department of Health and Human Services report and a World Bank study, lead has no safe threshold. Even at low levels, constant lead exposure has adverse effects on health. Researches have found that children exposed to high levels of lead experience more behavioral problems, have lower intelligence quotients (IQs) and decreased ability to concentrate. Adults become susceptible to high blood pressure and heart disease.

The bad news is that lead pollution affects us even when the vehicle we are using is an enclosed airconditioned car. At high levels, lead damages the kidneys, liver, nervous and reproductive systems in both children and adults.

As if these health costs are not yet enough, we also have to take into consideration the economic and social costs of air pollution.

Economic and Social Costs of Air Pollution

The economic and social costs of air pollution are equally substantial and similarly disturbing. A 1994 study estimated at P300 million to P400 million the monetary cost of air pollution to human health. The estimate was culled from hospital admissions, restricted activity days, medical treatment and lost earnings, among others.

In the same study, damage due to air pollution is pegged at P3,233 to P5,500 per year per household.

The long term effects of air pollution on the health of Filipinos, particularly the children and youth, will have profound implications on the kind of citizens we will have in the future. We cannot afford to have a sickly populace. As the most important resource in national development, we need to protect the health and well-being of our people. We, too, cannot afford to have cretins and idiots as future leaders of this country.

Ecological Costs of Air Pollution

The ecology is also directly affected by air pollution. A rise in temperature and carbon dioxide levels will have dramatic effects on bio-diversity. A change in, or interference with, the cycles of life and the interdependence of species will alter the patterns of infection. In fact, we are now experiencing such climatic changes with the El Niño and La Niña phenomena.

The health, economic, social and ecological costs of air pollution are just too enormous to be allowed to go on. We must put a stop to this continued degradation of the air we breathe. We cannot afford to wait for incidents of disastrous proportions before acting on this problem. We must adopt a comprehensive air pollution control policy now.

In addressing this problem, Mr. President, I subscribe to the World Health Organization statement that there is no "magic bullet." Yes, there are no magic solutions. The Clean Air Act does not and cannot deal with all the questions. This bill does not attempt to solve all the problems. It, however, guides us on how to get there and allows us to decide when to get there.

Mr. President, I need not specify the salient features of this

bill as the sponsor, my good friend Senator Honasan, had already done so with comprehensiveness and clarity.

Instead, I will show to our colleagues, by way of closing, a picture previously painted by the previous sponsor of the same bill, Sen. Orlando S. Mercado, to emphasize the need for the immediate passage of this bill.

Imagine, if we please, 20 years hence when our descendants are no longer able to go out to the playgrounds and parks to play. They will not even be able to play in their own yards. Given the continuing degradation of our air, it is conceivable how venturing outside one's home could literally become a health hazard.

Imagine, smog so heavy and pollution so bad that people have to wear gas masks to be able to breathe without choking.

Imagine, buildings installed with special gadgets in order to filter out polluted air. All structures and vehicles which we, human beings, use would also need these air-purifying devices. Imagine how living would become much more expensive by then.

This scenario is not farfetched. It is now happening in various degrees of intensity in Brazil, India, Japan, Hong Kong, and other countries. If we do not act now to correct a continuously worsening situation, we will certainly confront a similar, if not worse, scenario.

Shall we let this happen? I hope not. I therefore urge everyone in this Chamber to support the immediate passage of this measure.

Thank you very much, Mr. President.

The President. Thank you, Sen. Juan Flavier.

Next is the sponsorship speech of Sen. Robert Jaworski. Senator Jaworski is recognized.

SPONSORSHIP SPEECH OF SENATOR JAWORSKI

Senator Jaworski. Mr. President, are we prepared for a cleaner environment?

Mr. President, it is with great honor that this representation now joins our distinguished colleague, Sen. Gregorio B. Honasan, in sponsoring the enactment of Senate Bill No. 1255 under Committee Report No. 8, entitled "An Act Providing for a Comprehensive Air Pollution Control Policy and for Other Purposes," otherwise known as the Philippine Clean Air Act of 1998.

First, there was "*Silent Spring*," the book that opened the eyes of the Western world to the excesses of rapid and uncontrolled development. The book chronicled how polluted waters entering

the normal cycle of life and the food web manifested its ill effects on organisms that subsist on life-sustaining nutrients in water. Birds losing what is of birds--feathers and all, mutation exhibiting its toll. Nature was forced to submit to the exigencies of human needs or rather of human wants for more, more than what is necessary for an acceptable human existence.

Silent Spring accomplished what it was set to do. The United States, in particular, started examining its priorities over the long term. It had to impose stringent measures to check the deterioration of its environment before bio-magnification sets in into the very reason why development is being undertaken. That is of man himself.

Then came new discourses and advocacies such as "Small is beautiful," "Tools for conviviality," and many others. It even came to a point in one particular presidential election in the United States that a third candidate emerged as an alternative to the traditional Democrat-Republican contest. The third candidate ran on a platform of restoring environmental integrity. The American public responded tremendously. However, this was not enough to make the third candidate win.

On the other hand, this occasion made a dent in the political life of the United States. Pollution standards that are more stringent and guidelines on control of the same were put in place and are now still being constantly assessed as these are being seriously implemented.

The academic community worldwide made similar reactions by instituting new multi- and interdisciplinary undergraduate and postgraduate programs on environmental science and management. This exercise provided broader and specialized analyses on environmental degradation and pollution control, and new and radical policy directions responding to growing issues and emerging complexities of economic and social life in the context of all-encompassing environment.

In our home front, approximate efforts were undertaken, Presidential decrees created the National Pollution Control Commission, the National Environmental Protection Council and the Environmental Center of the Philippines, and ensuing standards and guidelines were formulated and implemented.

The past administration did these not because there was already a realization of the idiocy of our actions during that period, but because it was fashionable to be concerned with the environment. The effort was borne out of wanting to be "in" as it was the "in" thing and not because we were then genuinely concerned. Incidentally, it was at that time that the unparalleled destruction of the environment started to unravel.

With the advent of the Aquino administration, the same agencies were integrated into the Environmental Management Bureau with the Environment and Natural Resources Services under the Department of Environment and Natural Resources specifically to strengthen the implementation of the various rules and regulations. Other presidential task forces and *ad hoc* committees were set up to reinforce efforts towards a better environment. Government also organized networks among nongovernment organizations, people's organizations and other sectors of civil society, including the academe, with the hope of achieving the same purpose.

Regrettably, we failed. Is it because we lack the necessary tools? Or are we subconsciously unaware that we need to look deeper into the issue? Or are we still viewing the same as a fad, unworthy of greater concern than what we can spare?

We must submit that is none of these, but rather the absence --or what we often admit as the lack--of political will. The latter is a less painful admission of its absence.

This Chamber, we understand, also did its fair share in making our environment livable with its proposal to enact a law that would guide development efforts particularly on air pollution and solid waste management. As early as the Ninth Congress, this Chamber attempted to arrive at a practical remedy to address the deteriorating situation particularly on air pollution control. However, as of the last Congress, efforts towards such proposal failed. We are hoping that this term would be the last. We must not repeat the same legislative process on what could have been a doable vision.

Decades of plunder of our resources are slowly showing its toll. Forest denudation has not only brought floods and siltation but also death to our people and to many of our productive lands, which translate to less food for our people. This situation also means less breathable air from the forests and the trees.

Yes, less and less breathable air for all of us.

We are now seeing less yield in our productive seas not only because of overfishing but also due to the use of poisons and the destruction of our fishing grounds. Our rivers are dead, clogged with too much debris--organic pollutants, non-biodegradable materials, toxic and hazardous wastes and still other loads of undetermined nature.

The ongoing inaction over the fate of our own environment, we must say, is worse than the long-term combined effects of dengue in our locale, the plague of the medieval past, the Ebola of present Africa or the global HIV affliction. At least these viruses give short-term suffering or instant death. But air, land or water pollution result in long-term suffering or slow death. Worst, once

these various pollutants enter the food web and consequently the blood stream of humans, these accumulate inside the body and undergo the process we now term as "bio-magnification."

Bio-magnification in the long term may lead to genetic mutation, similar to what was chronicled in *Silent Spring*. This situation then inevitably leads to the death of the human species of how we know and view it now. What can be worse than this?

Are we prepared for a cleaner environment? We now dare ask.

We have before us a bill, probably a more refined version which almost made it into a law during the last Congress. If not for the unexplained reasons of some of our former legislators in the House of Representatives, we should now be seeing the initial preparations for its implementation.

This proposal--the Clean Air Act of 1998--embodies a comprehensive air pollution management strategy that lays down the framework with a corresponding action plan for the regulation of stationary and mobile sources of emissions to ensure cleaner and safer air for our people. We have adopted internationally prescribed and accepted standards for ambient air and fuel composition to control the release of harmful pollutants in the atmosphere. We have made these specifications because we believe that there is a need to do so and not simply rely on the discretion of the Executive to effect the crafting of specific regulations. These we did with a firm resolve because we cannot sacrifice the health and welfare of our people.

Based on the most recent study conducted by the World Health Organization in 1995, Metro Manila was ranked as the fourth most polluted city in the world. The level of toxins present in the air we breathe have risen to alarming levels, increasing the possibilities for higher incidences of cognitive impairment, encephalopathy, or even death, especially among children. We can ill-afford to carry on on such reputation and linger on the consequences of this environment menace.

We have also included the prohibition on the construction and operation of incineration facilities in the country and the eventual phase out of medical waste incinerators. Not so because we would want to discriminate against the technology but simply because we have found that the combustion process of these facilities generate toxic emissions, ash and residues that may contain heavy metals such as lead, arsenic, cadmium, mercury and nickel.

Exposure to these substances can cause cancer, birth defects and fetal toxicity. Other adverse effects to health, especially to children, include damage to the reproductive system, weakening of the immune defense system, liver and kidney damage and behavioral problems.

Advanced countries have already realized the ill-effects of incinerators. For instance, Maryland and Berkeley in the United States have respectively instituted a five-year moratorium on waste incineration. The Australians have successfully opposed 10 attempts to put up incineration facilities in their country for the last 10 to 15 years. Likewise, Belgium in 1995, ordered the shutdown of its incineration plant located in Ronse due to proven dioxin contamination of dairy cows.

Let us not brush aside the testimonies given by those who have experienced the tragedies of incineration. Let us not wait for an air pollution disaster to happen before we enact the Clean Air Act.

Banning incineration in our country is a step forward. Hence, this shall be the most significant move towards a development dedicated towards the general welfare of our countrymen.

Furthermore, our efforts would fall short if we do not summon the support of our fellow Filipinos, thus, we empower them by virtue of the citizen suits in this Act. This provision promotes our commitment as stewards of nature. This provision enables any individual to file an administrative or civil case against any person or entity that violates any provision of this Act. We wish to mandate this in the hope that future environmental laws would embody the same to further enhance people's participation and encourage our citizens to be vigilant guardians of our environment.

The least that we can do to protect and save the future not only of our environment, but most especially our people, is to serve as a catalyst in the long overdue fight against environmental neglect. Let us stir the reins of this daunted horse towards a land where the pastures are green, the waters are undoubtedly clean, and the skies are rightfully blue.

It must be taken as a challenge not only by legislators, but by each and every individual offering their own contribution above and beyond personal interests and concerns. We will have to face and answer for the health of the earth which is our only home.

Let us accept the mistakes of the past and the results of our years of neglect but only to propel us to bravely unload the baggage that hampered the past Congress from passing the Act which will give to the land where we so proudly stand the respect and caring it rightfully deserves.

We are hoping that this time around, Congress as a whole could muster enough courage to enact this one. We are also praying that the current administration would concur with Congress to put this into law. This humble representation,

therefore, appeals to the good sense of this honorable Body for the passage of the Clean Air Act.

Are we prepared for a clean environment? I believe we are.

Thank you, Mr. President.

The President. The Chair would like to thank Senator Jaworski.

Sen. Loren Legarda-Leviste is recognized for another sponsorship speech.

SPONSORSHIP SPEECH OF SENATOR LEGARDA-LEVISTE

Senator Leviste. Mr. President, allow us to underscore the importance of the measure at hand through a co-sponsorship speech in support of Committee Chairman Sen. Gregorio Honasan, where this representation will emphasize further the significance and urgency of proactive measures for a more healthful ecology.

We all have a right to breathe clean air. And of all the basic rights we have as human beings, Mr. President, this is one that we are compelled to exercise every few seconds. Few rights are as absolute, or as vital to our survival. And yet, by our own neglect and by our own shortsighted interests, we have allowed this right to be abridged. Nay, more than that, we have surrendered this right in many instances and in many ways.

Today, I seek the support of our honorable colleagues in enacting Senate Bill No. 1255 in order to allow our citizens to fully exercise and appreciate their right to salubrious living by inhaling clean air.

It is unfortunate, Mr. President, that the public is still in the dark about the real dangers of air pollution. By and large, air pollution is still treated as a public nuisance, instead of the serious health hazard that it really is. At any given time, many of our citizens still believe that a simple handkerchief is still a viable defense against air pollution. Given the level of air pollution that we have, especially in Metro Manila, not even gas masks are enough to provide adequate protection--especially against the finer particulate matter and gaseous pollutants choking us every time we breathe.

According to studies conducted by the UP College of Public Health in 1994, no less than 65 percent of Metro Manila residents are at risk due to excessive levels of total suspended particulate matter or TSP right inside their very homes. This figure rises to 80 percent when we consider outdoor exposure, as when commuting to work or to school.

Should it come as any surprise then, Mr. President, if children in Metro Manila suffer from bronchitis at a rate eleven times higher than the national average?

Likewise, other populations who are endangered by exposure to air pollution include drivers of public utility vehicles, street vendors, policemen and traffic aides, streetsweepers, street children and the average commuters who cannot afford the luxury of airconditioned vehicles. Even in the seemingly safe confines of a sealed airconditioned car, Mr. President, we cannot be assured of a pollution-free environment. Studies have shown that particulate matter--especially those ten microns and finer--still find their way into our unsuspecting lungs.

The comparative comfort of a private vehicle is merely a matter of luxury, Mr. President. What concerns us more is the fact that those who are most exposed and vulnerable to air pollution, as we mentioned earlier, cannot even afford basic protection. The prohibitive cost of medication and treatment is way beyond their reach. Most of them cannot even afford the cost of a single gas mask, which offers immediate, yet minimum protection from the poisonous atmosphere.

All of these do come at a real cost.

Some sectors insist that we cannot afford to pay the price for clean air. This representation begs to disagree, Mr. President, for I believe that we are already paying a very high price, both in hard currency and in the degradation of our health, our welfare and our environment.

In 1997, the DENR's Environment and Natural Resources Accounting Project IV released figures which revealed that, nationwide, the annual cost of illnesses and lost productivity related to total suspended particulate and lead pollution amounted to save P1.9 billion at 1992 prices. This, Mr. President, is a very dear price to pay--and we are only talking about two major pollutants.

Given that air pollution is a very real problem, Mr. President, it is most alarming that we have not taken any serious and concrete steps to actually control--and hopefully, minimize--this dangerous and life-threatening issue.

For instance, we do not have an adequate Motor Vehicle Inspection System or MVIS that would check out vehicles for safety and emissions prior to annual registration. The Department of Transportation and Communications has been talking about the MVIS for the last four years or so, and yet, the system has not been implemented on a national level.

For the last 20 years, we have had an antismoke-belching law as decreed by PD 1181 and yet, even in Metro Manila, only the

MMDA and three of the 17 local government units regularly implement it. Furthermore, only a total of nine LGUs actually have the capability to mount such a campaign.

Meanwhile, levels of industrial emission, by the DENR's own admission, is among the most poorly monitored and enforced, partly because of the high cost of monitoring equipment. No investments have been made to improve this serious gap in enforcement, and generally, DENR's Environmental Management Bureau and its Environment Management and Protected Areas Services in all the regions, are among the most poorly funded in the environment sector.

The lack of investments is symptomatic of a lack of interest. It tells us that even our own government has failed to consider the improvement of air quality a top priority. Some say that this issue is *malayo sa bituka* and is therefore not politically attractive.

To this cold and indifferent attitude, Mr. President, I dare say, not anymore! Because medical research will point out that people are suffering from respiratory ailments caused by foul air. People are suffering, Mr. President, and they are dying!

Adverse health impacts from high levels of air pollution include respiratory ailments and lung cancer from hydrocarbons and various particulates; poor concentration, fatigue and nervous disorders--especially in children--come from exposure to carbon monoxide and lead. And in some cases, carbon monoxide poisoning has led to DEATH.

A 1995 statistical report from the Department of Health shows that among the Top Ten Leading Causes of Death in the Philippines, at least four can be either directly traced to, or are aggravated by exposure to air pollution. Pneumonia ranks third with 34,000 deaths. Tuberculosis ranks fifth with 27,000 deaths. Chronic Obstructive Pulmonary Diseases claimed 11,000 lives and occupies the seventh slot, followed by Other Diseases of the Respiratory System which killed 7,000 last year.

All these have their corresponding losses in monetary terms. In a 1994 URB AIR study entitled "Valuation of Air Pollution Damages in Metro Manila", the monetary value of damage to health due to air pollution was estimated at between P300 million to P450 million pesos.

For these, and the myriad of other reasons, our colleagues in the Senate have cut across party lines to sponsor this comprehensive Clean Air bill which proposes the following:

- * To pursue a policy of balancing development and environmental protection through a comprehensive air pollution control policy that will rationalize, within

a sustainable development of framework, government efforts to effect the significant and timely reduction of toxic and hazardous emissions from all sources, for the protection of human health and of the environment;

* To create a multisectoral board chaired by the DENR which will govern air quality control zones or air shields which shall be designated, not according to political jurisdiction, but in consideration of climatic, topological and other natural characteristics that affect air pollution. For example, a regional industrial zone could, under an Environmental Impact Statement compliance program, be required to implement an independent action plan in order to meet its target.

* In addition to permit-and standard-setting functions, the bill proposes that the DENR designs and imposes an "emission charge system" on industrial dischargers to encourage pollution abatement and prevention. For financial requirements of clean-up, emergency response and rehabilitation, the DENR shall also determine and impose the necessary guarantee instruments to administer an Air Quality Management Fund. These provisions further strengthen deterrents to violations upon which higher penalties have also been set.

This bill responds to emerging concerns about ozone-depleting substances, greenhouse gases, persistent organic pollutants, and radioactive emissions. The overall thrust of this measure addresses the lack of an integrated national and local institutional mechanism for effective abatement, control and prevention of air pollution. Its approval, therefore, Mr. President, is most earnestly sought.

In closing, may I point out that this Body has missed an opportunity in passing the last iteration of the Clean Air Act in the Tenth Congress. We need a Philippine Clean Air Act very badly, Mr. President. Similar legislations against air pollution have been enacted in countries like United States of America, Japan, Sweden and the United Kingdom, and their people have been enjoying the benefits of improved air quality which, in effect, translate to improved health and improved ecology. In fact, these countries have not stopped refining the provisions of their legislation on air pollution.

During the last decade, nations that have enacted their respective laws on clean air have joined together in international fora to discuss how they can further develop new techniques and systems for more effective reduction.

We should look at the Philippine Clean Air Act in the same light, Mr. President. Our quest for a better and healthier environment begins with the passage of this bill. None of the versions of this measure, or even perhaps the combinations of these versions, would be perfect no matter how hard we work at it. But even then, we believe that a sound plan today is worth much more than a perfect plan tomorrow, for tomorrow may be too late.

Given the different limitations we have, in terms of technical and financial resources, we must come up with legislation that is responsive, viable and most of all, doable. Mr. President, the key to healthier, cleaner air for our generation and for those to come is in our hands today.

Mr. President, we urge our distinguished colleagues here in the Senate, to work across party lines to deliver to our people, to whom we owe so much, the Clean Air Act we all deserve during this session of Congress and hopefully before Thanksgiving Day. May this Congress forever be remembered as having bequeathed to the Filipino people a legacy of life and a legacy of clean air.

Thank you, Mr. President.

The President. Thank you, Senator Legarda-Leviste.

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

Senator Drilon. We thank our colleagues for this bipartisan support for this landmark legislation.

We are now in the period of interpellations. There are three senators right now who have reserved the right to interpellate: These are the Minority Leader, Teofisto T. Guingona Jr.; Sen. Miriam Defensor Santiago; and Sen. Ramon B. Revilla. Senator Barbers has also reserved the right to interpellate as well as Sen. Renato L. *Compañero* Cayetano.

For the first interpellation, therefore, Mr. President, may I ask the Chair to recognize Sen. Teofisto T. Guingona Jr.

The President. The Minority Leader is recognized to interpellate the principal sponsor.

Senator Guingona. Thank you, Mr. President.

First of all, I would like to congratulate the four sponsors of this very vital measure. I would like to ask the first sponsor if he will yield for some questions.

Senator Honasan. With pleasure, Mr. President, from the distinguished Minority Leader.

Senator Guingona. Mr. President, the Clean Air Act, as far as objectives are concerned, I think no one has quarrels with and the intended measure is very meritorious. It is in the implementation, as we all know, as in most instances, most vital projects, where the failure lies. We have many good laws. But when it comes to implementation, we, as a rule, generally, fail to really implement the law correctly. Would that be a fair statement?

Senator Honasan. Yes, Mr. President, that would be a very fair statement.

Senator Guingona. While this measure is very commendable and we agree with the rationale and the objective of institutionalizing--even giving to the local governments certain powers to help in the implementation of this measure--may we know who would be in charge overall of the implementation of this measure? Would it be the Department of Energy?

Senator Honasan. Mr. President, the lead agency, the overall in charge would be the Department of Environment and Natural Resources.

Senator Guingona. How about this Commission that the distinguished sponsor has referred to in his speech, the Air Quality Commission?

Senator Honasan. It is going to be chaired by the Secretary of the Department of Environment and Natural Resources, Mr. President.

Senator Guingona. Yes. But it has implementing powers as stated in the speech of the distinguished sponsor.

Senator Honasan. That is correct, Mr. President, in coordination with the other involved agencies.

Senator Guingona. So that it will not be the one to lay down the programs? It will only implement the programs. Would that be correct?

Senator Honasan. Mr. President, the sequence, as envisioned in the measure, will begin with a report from the Department of Environment and Natural Resources which we shall call the National Air Quality Status Report, after which an air quality improvement framework plan will be drafted. This will set in motion these regulations related to improving the quality of the air we breathe.

Senator Guingona. Will this also specify the fuel content, say, of diesel and gasoline?

Senator Honasan. These will be among the many standards that we hope to enforce and impose, Mr. President, also based on

the ability to complete our information and data base related to fuels and pollutants devices.

Senator Guingona. We are now in the midst of interpellations as far as Protocols 4 and 5 are concerned, based on a World Trade Organization Multilateral Treaty, allowing importations of goods and services across the borders with zero tariff by the year 2005.

Under this measure, if we are successful, the lead time within which to implement or get things going would be three years, as I understand it.

Senator Honasan. Yes, Mr. President.

Senator Guingona. By the time there is an importation of fuel that is not in accordance with the specified standards set by this Commission--would it be the Commission?

Senator Honasan. Yes, Mr. President.

Senator Guingona. If it is not in accordance with the standards set by the Commission, we can deny entry in spite of our treaty.

Senator Honasan. Mr. President, such a situation would probably not happen since we will subscribe to international standards even for fuel composition. That is our assumption.

Senator Guingona. It will not happen because we will subscribe...?

Senator Honasan. To standards for fuel emissions that are based on international standards, Mr. President.

Senator Guingona. Is the distinguished sponsor aware of the position of the PIPI, the Philippine Institute of Petroleum Incorporated?

Senator Honasan. Yes, Mr. President.

Senator Guingona. The officials there are supposedly in agreement with this measure. They even support a ban on leaded gasoline as proposed in the bill which is now mandated by Executive Order No. 446, but they say that the measure should not prescribe fuel specifications.

So right here, we have a looming conflict where the Commission will specify certain standards which we believe will be good for our people. But they may say, for various reasons, it is highly technical, its specifying standards are expected to change for better scientific data, et cetera; that the manufacturers or producers have already taken into account the concerns of the Clean Air Act and, therefore, in accordance with the Free Trade Agreement, they would insist on exporting to us our products.

Senator Honasan. Mr. President, the proposed law is also, in effect, a statement of an ideal situation. It will also be greatly dependent on our ability to monitor and to enforce the standards and specifications. The idea is to strike a healthy balance between our international commitments and the standards that we wish to impose upon our people and the many sectors involved, with the primary end in view of preventing further poisoning of the air to the detriment of our population, especially our children.

Senator Guingona. Yes, I just want to set the stage correctly. While that is an ideal, if there should arise a conflict between our standards and the imported goods sought to be brought into the country different from our standards, which would prevail? Ours?

Senator Honasan. Our standards would prevail. And this should be a judgment call of the Commission, Mr. President.

Senator Guingona. Of the Commission. I see. In order to achieve this overall task, the measure proposes funding of an amount. Is it P400 million?

Senator Honasan. It is P420 million, Mr. President.

Senator Guingona. Is that a one-time funding?

Senator Honasan. Yes, Mr. President, for the initial requirement and this should be derived from the revenues that are generated from permits.

Senator Guingona. Has there been detailed study on how this P420 million will be spent?

Senator Honasan. Yes, Mr. President.

Senator Guingona. May we be favored with basics for that.

Senator Honasan. Mr. President, only for equipment, to give the gentleman a rundown of how the P420 M will be spent. For ambient air quality monitoring station, at a cost estimate of about P8 million per station, we will allocate P376 million. We have stock samplers--these are technical terms--for 15 regions at P.75 million, P22.5 million. Three gas samplers at P.5 million, this will have a total of P15 million.

The detailed total, Mr. President, is P413.5 million for equipment only.

Senator Guingona. For equipment only. And this will not take into account, let us say, Metro Manila. One of the biggest emissions in Metro Manila is caused by vehicles, especially the fuel-driven vehicles of jeepneys and buses. Would that be a correct statement?

Senator Honasan. That is correct, Mr. President. In fact, 60 percent to 70 percent of all toxic emissions emanate from mobile sources.

Senator Guingona. How would this equipment now be applied to testing and monitoring the vehicles? Would they be tested at random or while they are in operation?

Senator Honasan. Mr. President, the focal point for this, not only for mobile sources, would be in what we call "air quality control zone." This will provide us with the framework for establishing the location of random testing equipment and, of course, the testing equipment that will be applied to the source of this toxic emission.

Incidentally, Mr. President, I mentioned the figure P413.5 million. This figure was rounded up to P420 million to allow for some increase in prices that may arise in the future.

Senator Guingona. In the position paper of the Philippine Institute of Petroleum Incorporated, it claimed that the industry-wide capital requirement for new hydro-treating facilities will be P5 billion to P6 billion.

Would the distinguished sponsor comment on this, please?

Senator Honasan. These are estimates of the institute and this is the product of their own internal computations. We are trying to validate this data. This is part of what we are trying to consolidate, our comprehensive data base, that will allow us to consider these inputs comprehensively and apply it to the law as we refine it in the future.

Senator Guingona. I see. Is there a difference between the industrial fuel and the automotive diesel fuel as far as regulating it is concerned?

Senator Honasan. As far as regulating it is concerned, there would be minor differences. But the basis for this always will be accepted and agreed standards.

Senator Guingona. I understand that this bill was already passed in the Senate and in the House of Representatives last year.

Senator Honasan. That is correct.

Senator Guingona. And went through a Bicameral Conference Committee but was inevitably delayed there, and the time for legislation lapsed. Is it correct to say that the main cause was whether or not to allow incinerators?

Senator Honasan. Mr. President, as we consider the possible application of lobbies as a legitimate tool in support of legislation,

it is also not our intention to ascribe any other motive to our distinguished colleagues in the Lower House even in the Tenth Congress. We can only attribute this to the constant and dynamic inflow of information that would warrant such a delay.

There are allegations that our colleagues in the Lower House sat on the Clean Air Act. But we would rather give them the benefit of the doubt and assume that the bill was simply overtaken by events, related to the continuous flow of current information, as we are also, Mr. President, experiencing now.

To explain further, the bill, as we will notice, is in a way rigid and in a way open-ended. It allows prospectively more refinements --the imposition of stricter standards.

Senator Guingona. Would the distinguished sponsor prefer incinerators to landfill deposits of wastes?

Senator Honasan. Mr. President, even our definition of incinerators has to be taken in the proper context. There are incinerators that actually use the residual products to enhance the so-called multiplier effect for energy. It is self-contained; it is cheap; it does not emit the normal toxic substances that the traditional incinerators do.

In relation to landfill, the information we have so far indicate that landfill does not support the objective of the Clean Air Act in the sense that it is a very efficient way of introducing toxic substances into the ground and into our water sources. So we are of the mind to veer away from landfill.

The other dimension to this is, it is not an either/or situation. It is not a choice between incinerators or incineration and landfill. Rather, it is a sequential process. It is our intention--and the other proponents of the bill are one in this--that we might have to think of legislation that will compel our people to segregate their garbage: bottles, cans, plastics and other biodegradable materials, leading to an ideal situation which we call "zero-waste" management, which is not at the moment operationable.

Senator Guingona. So, all of these issues that have been raised against incinerators have ready and scientific answers.

Senator Honasan. That is correct, Mr. President. In fact, it is a function of reeducation. The negative impressions that have been generated by our traditional concept of incinerators were basically borne by misinformation and this we are trying to correct with more updated studies and information from reliable institutions.

Senator Guingona. As I understand it, the Commission will come up with a comprehensive plan in supplement of this measure--

Senator Honasan. Yes, Mr. President.

Senator Guingona. --within the six-month period?

Senator Honasan. Yes, Mr. President. It will more importantly generate a coordinative effort without highlighting the issue of turf which has set back all our efforts to do so.

Senator Guingona. Who will promulgate or do the rules and regulations? Because in our experience, it is in the rules and regulations where the No. 1 delay has been the issue. Second, sometimes they interpret the law; if they can get away with it, change the law because of pressures. Who will undertake the rules and regulations?

Senator Honasan. It is the hope of the Committee that the Presidential Air Quality Commission will promulgate the rules.

Senator Guingona. It will also have the masterplan.

Senator Honasan. That is correct, Mr. President. The DENR, being the lead agency and chair of the Commission, will have the responsibility for monitoring, reporting and allowing the implementing mechanisms to do its job.

Senator Guingona. So that in six-month's time, we can perhaps already have the projections for financial requirements every year.

Senator Honasan. That is correct, Mr. President. But knowing or being aware of our propensity not to meet even very clear timetables--even the aspect of timetables is not that rigid, considering our present economic problems--it will all be dependent on our ability to support these endeavors.

Senator Guingona. Assuming that the economy gets better and we overcome the crisis earlier, then would the gentleman agree if we have already the estimates to make it a continuing budget, not just for one time, P420 million, but for a continuing budget for the program so that it will really succeed? Because if it is on a one-time basis and there is no appropriation and the expected income is not generated from permits, the good intentions may flounder again.

Senator Honasan. Mr. President, I would agree to the gentleman's proposal. We hope that this will be incorporated during the period of amendments.

Senator Guingona. Even if we have the mechanisms for checking the emissions, but if the problem is not the emission itself only but also the old engines, I understand that one is related to the other.

Senator Honasan. That is correct, Mr. President.

Senator Guingona. It is not only the fuel. It is also the engine. If the engine is relatively old, like some old people, the creaking bones and the creaking connections, valves, et cetera, it will have more emissions than the new ones.

How will the distinguished sponsor help resolve this problem? Will there be a limitation on the number of years for a public vehicle?

Senator Honasan. Mr. President, for this particular element in the Act, we can only look at the experience of other more developed countries where productive life of motor vehicles is specified. And this is related to its efficiency and toxic emissions.

We can calibrate our own program based on this, working towards certain ideals. But then, again, this will be part of the standards that will be promulgated by the Commission. And it will also be again dependent on our ability to monitor these worn-out and inefficient vehicles. Of course, we can relate this to the penalties.

Senator Guingona. In the case of the jeepneys, for example, I understand from some construction people--I mean, those who build jeepneys--that the jeepney has a life span of more than 50 years. Would it not be violative upon property rights to, say, limit their use for 10 or 20 years?

Senator Honasan. Mr. President, I am confident that the distinguished gentleman shares in the thinking that this goes beyond the issue of jeepneys. In fact, during the committee hearings, we were surprised to know that even this Act is related to a piece of landmark legislation we are trying to push like the Land Use Policy. It will allow us to plan in advance what we want for commercial, industrial, residential, government and recreational centers.

But relating it to the question of the distinguished gentleman, Mr. President, maybe a long-term vision for mass transport would reduce the need for jeepneys, reducing the distances that our people have to travel, from their place of residence to their place of work, from their place of residence to the place where they transact business with government. It will in the very long term help solve this problem.

I guess, not even philosophically, as our people are liberated from poverty, so we will have a truly viable Antipollution Control Act.

Senator Guingona. I have some more questions later on, but for now, I would like to thank the distinguished sponsor.

Senator Honasan. I would like to thank the distinguished gentleman, Mr. President.

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

Senator Drilon. Mr. President, I ask that Sen. Juan Ponce Enrile be recognized.

The President. Sen. Juan Ponce Enrile is recognized for interpellation.

Senator Enrile. Mr. President, I would like to direct my question to the doctor of the House.

The President. Sen. Juan Flavier is recognized.

Senator Enrile. Mr. President, may I know if my distinguished colleague and *tocayo*--"Juan to Juan"--would care to clarify some points for the record?

Senator Flavier. With trembling trepidation, Mr. President, I will do it.

Senator Enrile. Mr. President, I fully agree with the purpose and thrust of this measure. In fact, I am a coauthor. But just to set the record straight in order to define into the *Record* the intent of the measure and not to burden some of our countrymen, I would like to clarify some concepts here.

This measure, Mr. President, if interpreted in a very broad way, could be a burdensome measure to our people, especially our poor people. That is why I would like to clarify this into the *Record*.

Mr. President, it is a practice amongst our people in the rural areas, especially in the remote barangays, to cook their food with firewood. Would such an activity be covered by this measure?

Senator Flavier. To the best of my knowledge, Mr. President, no. The saving grace is that, by and large, the congestion that is prevalent in the urban areas is not present.

Senator Enrile. I raise that point, Mr. President, because of the requirement of permits. As we know, many barangays in the rural areas cook their food with the use of the *kalan* until now, and they use as fuel firewood that they get from the surrounding areas.

I would like to establish into the *Record*, for their sake, that the burning of wood used as firewood and fuel in cooking food for families in the rural areas would not be treated as pollutants to the extent that they would require permits from the government to

continue that activity. In spite of the fact that there are some emissions of some chemical substances into the air during their cooking operation, that would not tantamount to a pollution under this law.

Am I correct in this, Mr. President?

Senator Flavier. Mr. President, I would like to confirm that because the fuels used through the burning of wood would not pose as much hazard as the pollutants that are emitted from the use of gasoline, especially in terms of the two elements of sulfur and lead.

Senator Enrile. This would also include the use of charcoal as a fuel to bake *bibingka* either in the rural areas or in the cities, or to broil any food materials like beef, pork, chicken, *lechon*, fish or other food products.

Am I correct in this, Mr. President?

Senator Flavier. The gentleman is very correct. But these are not included within the intent of this particular bill.

Senator Enrile. Mr. President, there is also a practice in the rural areas, especially in the rice producing areas, where the rice husks are normally burned. Sometimes, the quantity of rice husks during harvest time, including sugar cane bagasse and what we call *gayami* or *garami* in Ilocano--

Senator Flavier. Hay, Mr. President.

Senator Enrile. Whatever we call it, Mr. President. I am not so familiar with the English terminology, unlike my *tocayo*.

When they burn these agricultural wastes, including the rice stalks, this would not be violating this law. Am I correct in this, Mr. President?

Senator Flavier. The gentleman is again correct, Mr. President. It is not included. However, just to answer the gentleman, burning of the husks and the hay on the ground is discouraged because it kills the nitrogen-fixing bacteria which is necessary for soil fertility.

Going back to the original question, Mr. President, it is not included in the spirit of this bill.

Senator Enrile. There is also the practice in the rural areas, especially in the coconut-farming areas, where the coconut husks are either burned in order to dispose of them or burned and used as fuel, including the coconut shells, sometimes coconut trunks and coconut fronds. These would not also be covered by this measure. Am I correct, Mr. President?

Senator Flavier. Again, Mr. President, the gentleman is very correct. It is not included in the purview of this bill.

Senator Enrile. We have also a practice in the country especially in the rural areas and especially amongst people who are opening lands for cultivation, where they cut the small trees or big trees in their acquired public lands and they normally burn this whole thing in order to clean up the area. Even in those areas that are already under cultivation, they burn the fields in the belief that the ashes would contribute to the fertility of the soil. Would these activities be violations of this bill, Mr. President?

Senator Flavier. Again, Mr. President, it would not be violative, although the action per se is discouraged because the act of *kaingin* or slash and burn produces, as the gentleman said, a lot of ashes which many or some farmers perceive as desirable, because they consider them as fertilizer, but they actually affect the acidity and alkalinity of the soil.

Senator Enrile. I just want to be sure, Mr. President, that we establish into the *Record* the fact that the intent of the law would not be to cover these activities and to proscribe these activities which are being practiced by our people in the rural areas.

Senator Flavier. That is correct, Mr. President.

Senator Enrile. Mr. President, we have also a practice in the country, especially during Christmas where we celebrate it with firecrackers, sparklers, *kwittis*, fireworks, and the like. During fiestas, we also do this. Would such activity, traditions of our people, be considered a violation of this law?

Senator Flavier. Again, Mr. President, no, it will not be violative, but let me again overanswer by saying that the controls for firecrackers manufacture would be encouraged in order to reduce the limited time on exposure to these pollutants and also the accidents. That is why when I was the Secretary of the Department of Health, I encouraged the use of *torotot* because it would at least minimize.

But no, this is not included in the spirit of this bill.

Senator Enrile. *Torotot*, Mr. President? What is *torotot*?

Senator Flavier. There are two meanings, Mr. President. One is a horn that causes noise, but the other one is, when practiced, one's wife will make noise. *[Laughter]*

Senator Enrile. I am referring to the first meaning, Mr. President.

Senator Flavier. I understand, Mr. President.

Senator Enrile. Mr. President, the law refers to the use of methane and it seems to be proscribed because of the greenhouse effect. Am I correct in this?

Senator Flavier. That is correct, Mr. President.

Senator Enrile. Would this then mean that the use of lighters would be proscribed?

Senator Flavier. To the extent that we will prevent Senator Ople from smoking, I hope so. But, no, it is not included, Mr. President.

Senator Enrile. What would be the type of emission of methane that would be considered as a violation of this Act?

Senator Flavier. To the best of my knowledge--and now I am treading on grounds I am not sure of, Mr. President--the wave of the future is the use of LPG in cars and this will be included to the extent that its emission can be monitored or tested because again of its effect on the environment, but these are more large scale use.

For example, in Japan, Mr. President, most of their taxis now are operated by LPG so this would be included.

Senator Enrile. So for purposes of cigarette smokers using lighters, would this not be considered a violation of this Act?

Senator Flavier. No, Mr. President, if only because it is of such miniscule degree.

Senator Enrile. Miniscule in the sense that singly taken may be miniscule, but if we have 10 million smokers using lighters, the quantum could be quite substantial?

Senator Flavier. That is true, Mr. President, but we are going to concentrate on the bigger effects like the use of LPG in cars.

Senator Enrile. I just want to establish this in the record. How about hair sprays being used by our women, Mr. President?

Senator Flavier. Again, that is a big problem because of its ozone effect, Mr. President. But to the best of my understanding, it is not included in this bill.

Senator Enrile. So this will not be proscribed by this measure?

Senator Flavier. No, Mr. President, although down the line, I would imagine and foresee a possible law that will include this, especially related to the use of the CFCs.

Senator Enrile. What are the CFCs, Mr. President?

Senator Flavier. These are the chlorofluorocarbons that are related to spray and also the ones used in refrigerators and other such equipment, Mr. President.

Senator Enrile. Bakery establishments, Mr. President, that would use indigenous materials like firewood--and these are still quite a number in the country--or rice husks or coconut husks or saw dusts or bagasse to cook or bake bread and in spite of the emission of smoke through their smoke stock, would these be proscribed or they would not be proscribed?

Senator Flavier. No, Mr. President, it is not.

Senator Enrile. So these will not be proscribed?

Senator Flavier. Not yet anyway, Mr. President.

Senator Enrile. How about restaurants using similar indigenous materials, Mr. President?

Senator Flavier. Again, no, Mr. President.

Senator Enrile. But restaurants using gaseous substances for fuel would be covered, Mr. President.

Senator Flavier. To the best of my understanding, Mr. President, also no. We are zeroing in on the vehicles because according to studies, 60 percent to as high as 80 percent of all the pollutants that are harmful come from these automobiles.

Senator Enrile. I thank the gentleman for that, Mr. President. At least, the intent of the law then is not to cover these traditional activities of our people and the traditional fuel that they have been using, but we are zeroing primarily on chemical plants, factories, industrial plants and motor vehicles using gaseous or chemical fuels to run them in order to prevent the pollution of our air.

Senator Flavier. That is correct, Mr. President.

Senator Enrile. Mr. President, there is a requirement here that every user covered by this law must obtain a certificate. I agree with the distinguished gentleman, and I agree with the purpose of the bill or the methodology of the bill in requiring such certificates in order that government can perform its power to regulate and inspect.

How do we prevent corruption, Mr. President, which is a distinct possibility whenever certification of government is required to be issued in order that economic activities would be allowed?

Senator Flavier. Truth to tell, Mr. President, I would not know the answer, but that is a real problem. Even in the present experience of vehicle emission control, there are very real possibilities for hanky-panky in the face of the fact that these are human-operated checks. But I would not know the answer. I suppose that a series of interpellated actions including close monitoring by NGOs, close supervision by those who are responsible for this would all help, but I would not know the answer; I wish I knew, but I do not. I will reserve the answer to that for Sen. Loren Legarda-Leviste.

Senator Enrile. Would the principal sponsors care to think of a possible legal formulation that perhaps would minimize this possibility in the sense that if standards are established in this bill or by the mechanism or agency sought to be created to implement this bill, if it becomes a law, are already met that the issuance of the certificates should not be withheld at all? It should become ministerial and automatic, and that any withholding of the certificate would have to be explained formally in writing by the issuing authority.

Senator Flavier. Mr. President, that would be an excellent improvement to the bill, and without preempting the prerogatives of the principal sponsor, I am sure that we would be very open to such amendment.

Senator Enrile. Mr. President, the definition of "air pollutants" includes odors, perfumes, for instance, good odors and bad odors.

What is the extent, if we may measure the odor, that would be considered pollutant to the air, and how long must the odor last?

Senator Flavier. Again, Mr. President, I do not have the answer. All I know is that, and if I may use an analogy which I am more familiar with.

Senator Enrile. Should it be a persistent odor?

Senator Flavier. Yes, Mr. President. It must not last more than one-and-a-half second.

Levity aside, I think those are the standards that the commission can look into. But the analogy I wanted to make--because I do not know the answer to that, but this one I know the answer--is water.

Water is adjudged potable, and when we say "potable," in the light of the discoloration we have, there are two dimensions.

Senator Enrile. But we are including it here in "Air" that is why I am raising the issue, Mr. President.

Senator Flavier. I understand, but I am trying to respond by using an answer that I know because the other part I do not know.

Potability has two parts. One is bacteria and the other is aesthetic. When the water has no bacteria or cannot cause diseases, then it is "bacteria-free." That is one aspect. But when the aesthetic defined as color, smell, and appearance are not passed, technically speaking, it is not potable. But the aesthetic part is not as harmful as the other one.

Going back to the question of the gentleman, certainly, we should include that. But the elements we want to know of like intensity and length are something that maybe the commission can understand.

Senator Enrile. Mr. President, I can understand the reason odor has been included. Maybe this is intended to cover cases like Meycauyan where it has tanning factories or chemical plants where they have sulfuric substances or chemical elements being emitted which could produce bad-smelling odors. But if the odor is a pleasant odor like odor of a well-refined cooking oil, should this be proscribed?

Senator Flavier. I think the gentleman has a point there, Mr. President. So when we say "odor", maybe it should be qualified and the word that comes to mind is "offensive odor". This must be controlled in a way that is reasonable. Again, these are only my personal opinions and maybe the commission will be in a better position to promulgate since these are technical dimensions.

Senator Enrile. "Dust", Mr. President. How can we proscribe dust when many of our roads in the countryside, especially in the barangays, are all dusty roads?

Senator Flavier. The gentleman is right, Mr. President. I think it will be difficult, especially in the light of the kind of roads we have.

Senator Enrile. Again, I think I can understand the purpose of this. This covers cement plants, quarries, mining areas and the like. But if we are not going to qualify the word "dust" here, any foolish implementor of this law could make life very difficult for our people.

Senator Flavier. That is correct, Mr. President. The gentleman is right. Like odor, we should qualify it and the gentleman's qualification of cement plants and the like is a very reasonable criterion.

Senator Enrile. "Mist", Mr. President. How can mist be a pollutant? We have mist in the morning.

Senator Flavier. That is not illegal, Mr. President. But what would be illegal I think is mist that would be "noxious," to use the word of our Majority Leader, and harmful to the individual.

Senator Enrile. Can the distinguished gentleman give us an example of a mist that would be noxious and deleterious to human life?

Senator Flavier. Mists from chemicals, Mr. President.

Senator Enrile. Then we should define, we should particularize the term, Mr. President, in order not to be misunderstood.

Senator Flavier. I agree, Mr. President, and we should qualify so that we are zeroing in on what would be noxious and harmful.

Senator Enrile. Mr. President, we have the system, and this is being used even by the Department of Health, that during the period where there is a dengue epidemic, we allow fogging of our surroundings.

Senator Flavier. That is right, Mr. President.

Senator Enrile. And they use chemicals for this purpose.

Senator Flavier. Yes, Mr. President.

Senator Enrile. Would this be proscribed by this measure?

Senator Flavier. No, Mr. President, because the intent is to kill the adult mosquitoes.

Senator Enrile. But this will also pollute the air.

Senator Flavier. Yes, that is true, Mr. President, but the chemical used, at least, in intent at certain levels is not harmful to human beings.

Senator Enrile. Suppose I would call for the fogging of my compound, Mr. President, and my neighbor disagrees, could he sue me under this law?

Senator Flavier. I am not sure, Mr. President, but I think not.

Senator Enrile. Because there is a power to sue, both civil and criminal, given to any person under this law.

Senator Flavier. That is true, Mr. President. That is why the point of the gentleman about clarity is very important so that we can delineate what would fall within the purview of this bill.

Senator Enrile. Am I correct in assuming, Mr. President, that the use of smoke arising from a chemical material to fog my surroundings in order to protect myself from any disease would not constitute a violation of this law?

Senator Flavier. Again, the qualification is important; but if it is only smoke from firewood, the answer would be no.

Senator Enrile. When they fog the area, they use--I do not know what they use--a very heavy smoke.

Senator Flavier. If the gentleman is referring to chemicals, Mr. President, those are chemicals that are really harmful to the insects but not to the individuals.

Senator Enrile. Not to human beings?

Senator Flavier. That is right, Mr. President.

Senator Enrile. In that case, will this not be proscribed by this measure?

Senator Flavier. No, Mr. President.

Senator Enrile. And that one cannot be sued for that purpose?

Senator Flavier. No, Mr. President.

Senator Enrile. All right. The air pollutants also include smoke, dust, soots, cinders, fly ash, solid particles of any kind, gases, fumes, mist odors. Of course, radioactive substances would be easy to understand, but all of these are general statements, general terms, Mr. President. That is why I have taken pains in trying to identify as much area as possible where these smoke, soots could be emitted and yet, perhaps, because these are traditionally used by our people, especially when they make *pinugpugan* either of goat or the best friend of man, especially in the northern parts of the country, would this not be proscribed by this measure?

Senator Flavier. No, Mr. President, but the point the gentleman is making is very important to me because it suggests the need for really qualifying what those are so that it will be very clear.

Senator Enrile. Mr. President, just for the record, what is the difference between Section 2 and Section 3? Are those stated in Section 2 not also statements of policies of the State that it recognizes the right of our people to equitably share in the utilization and enjoyment of all natural resources?

Senator Flavier. To the best of my understanding, Mr. President, the Declaration of Principle is more general and refers to the ambience of the person, whereas the policy refers to the government.

Senator Enrile. The right of the people. This statement of principle--(a) the right to breathe clean air--this was already fully

explained by the distinguished lady senator from Antique and the Republic of the Philippines what that right means.

But one thing I cannot understand why it has been included in this measure is the "right to equitably share in the utilization and enjoyment of all natural resources." It would seem to me that this is not germane to this measure, because the measure is "An Act Providing for a Comprehensive Air Pollution Control Policy." We are talking here of an equitable sharing in the utilization and enjoyment of all natural resources.

Senator Flavier. Yes, Mr. President, I hear the gentleman's point to the extent that it should be excluded from the listing. We should be open to that kind of amendment.

Senator Enrile. Thank you, Mr. President.

"(b) the right to participate in environmental policy formulation, planning, management, monitoring and enforcement activities of the State."

Would this be individual participation or collective participation, Mr. President? Because if it would be an individual participation, maybe every citizen of this country can demand, as a matter of right, if we are going to grant them that right that they must be heard. All of them.

Senator Flavier. The intent, Mr. President, is to encourage consultation.

Senator Enrile. But if it is my right to participate, they should grant me that right. I have a right to complain if they have not consulted me directly.

Senator Flavier. I see the point of the gentleman, Mr. President. Maybe he wants a qualification statement that would encourage participation and consultation without cluttering it with that extreme situation where every person would then demand.

Senator Enrile. This is the right of all citizens. This is limited to citizen. The non-citizens have no rights here under this measure, although they breathe the same air.

Senator Flavier. Yes, Mr. President.

Senator Enrile. Is this the intent, that only citizens are entitled to these rights and the non-citizens who are residents of the country cannot say anything about it?

Senator Flavier. I am not sure, Mr. President. All I am sure is that we would like to encourage participation and

consultation. But the gentleman's distinction of foreign and local, I am not sure. I suppose his point is that they are breathing the same air.

Senator Enrile. They drink the same water.

Senator Flavier. Yes, Mr. President.

Senator Enrile. They will breathe the same clean or dirty air, and yet we limit the right to object only to citizens of the Philippines. Would this not violate the equal protection clause of the Constitution?

Senator Flavier. Let me try again, Mr. President, even if I am getting deeper into trouble. I suppose that it would be the primary responsibility of the citizens.

Senator Enrile. How about the non-citizens who are living with us? Why not change the word "citizen" to "PEOPLE"?

Senator Flavier. It is accepted, Mr. President.

Senator Enrile. At the proper time, Mr. President.

Senator Flavier. Yes, Mr. President. I am preempting my principal sponsor.

Senator Enrile. I imagine, the President has appointed a consultant on Chinese affairs, and we are depriving the Chinese the right to participate in a matter involving their health.

Senator Flavier. I understand, Mr. President, and I would be willing to make them breathe the air that I breathe out.

Senator Enrile. They cannot breathe the air from China. The Indians cannot breathe the air from India.

Senator Flavier. That is true, Mr. President.

Senator Enrile. The Spaniards cannot breathe the air from Pakistan. The Japanese could not breathe the air from Japan. They have to breathe the air from the Philippines, so they should be equally given the right to participate.

Senator Flavier. I agree, Mr. President.

Senator Enrile. Is it the intent of the framers of this measure --and I am one of them, Mr. President--to grant to every person living in these islands of ours to participate in the decision-making process concerning development projects or activities that may have adverse impact on the environment? This is a very broad provision. Every citizen can impede any economic project in this country that would employ people and give them

livelihood if we grant them this right, which is the right to go to court and to file a suit. I do not think we can move as a nation.

Senator Flavier. Let me give an example, Mr. President that will underscore the gentleman's point. In a previous bill that he was involved in--the Indigenous People's Right Act--this element of consultation and participation was also there. We qualified it by saying that it does not have to be a 100 percent agreement because it will imperil all our actions because there is no such possibility, but it would, at least, give the opportunity for those who want to participate. And I suppose the more of them who would participate, the better.

Senator Enrile. Yes, Mr. President. But when we grant a right, there must be a commensurate mechanism for the person to exercise that right. First, there must be notice to the individual members of the polite polity so that they can intelligently participate in the activity where they will exercise the right. So this will impose a heavy burden on the government in implementing this measure and in pursuing its economic development.

Senator Flavier. I understand, Mr. President. I am sure that the good senator would have some suggestions to make it more realistic. I did not realize that in doing so, there are antecedent actions we need to take. But the point is well taken. The opportunity to be heard in consultation is the main point. But what I hear the gentleman saying is that there are antecedent steps we need to take. And without saddling us with that kind of problem, we would be happy to listen to a modification.

Senator Enrile. That is happening now, Mr. President. Some sectors of our economy are being impeded because of the requirement of consultation. I am not saying that we should be oblivious of the needs and concerns of our people. But we have to balance this with our effort to build the nation, to create an economic climate and to provide work for our people without work. But if we are going to make laws that would give all of these rights in effect, or provide these kinds of roadblocks, I am afraid that we are adopting contradictory policies. We have a policy of encouraging economic activities. On the other hand, we establish policies that would thwart the momentum of these economic policies.

Senator Flavier. I understand, Mr. President. I suppose what we should aim for is a balance between those two seemingly conflicting points so that we can, at least, make the people feel that there is an open door to consultation without stifling the efforts of the government.

Senator Enrile. And especially when we grant people that right, with a right to sue, the right to bring suit.

We know that there are many people here, especially lawyers, who have clients. They can do a lot of havoc by just bringing law suits against people with project--no matter how meritorious the project is--to delay the project.

Senator Flavier. I understand, Mr. President.

Senator Enrile. And the one who would suffer will not only be the project proponents but the nation.

Senator Flavier. Yes, Mr. President. So, again, it suggests to me a need to qualify even that aspect of the suit.

Senator Enrile. I am not raising this issue to criticize. I am raising this issue to bring home to our members in this Chamber these possible problems that we will encounter in implementing this measure because this will be an attractive law for litigious people, especially when they can bring action in court for compensation.

Senator Flavier. So far, Mr. President, I have not heard criticisms. What I have heard are attempts to improve the crafting of this bill.

Senator Enrile. Thank you very much for that.

Finally, Mr. President, when we provide in this measure that open burning of refuse by any person, whether in private dumpsites of commercial or industrial establishments or in public dumpsites of local government units and agencies, are declared illegal, I would just like to reaffirm my understanding of our exchange of views that this Section 25 would not cover the burning of indigenous refuse like rice husks, bagasse, sawdust, rice straws--

Senator Flavier. I confirm that, Mr. President.

Senator Enrile. --dried bushes, and so forth and so on.

Senator Flavier. Yes, Mr. President. I confirm that.

Senator Enrile. Now, Mr. President, the suit required to be filed here is accepted. But the question is: First, what court would have jurisdiction over a suit arising under this law?

Second, would the provision of this proposed measure authorizing citizens to file suit not violate the policy against multiplicity of suits?

Senator Flavier. First of all, I thought the gentleman said "finally" a while ago, because the question is difficult but real. I would suppose it is the RTC. But maybe we should give this more

thought because of the gentleman's last point. It might just clog our court system.

Senator Enrile. Why do we not grant the right to sue some associations rather than individuals?

Senator Flavier. I think that will be a distinct improvement, Mr. President, and probably more manageable.

Senator Enrile. I am just proposing this. I do not know the metes and bounds of this proposal but I would like to throw that idea on the table.

This is my last question. We will come to the question of penalties at the proper time.

On Section 29, we talk of aircraft noise. In the definition also, there is something said about noise--"sound, unwanted sound from unknown source." Church bells, would this be unwanted sounds?

Senator Flavier. I think what we are talking about are noise of a magnitude that would, for example, affect...

Senator Enrile. Siren, Mr. President, church bells, the sound of cars passing through our roads, the sound of the Light Railway Transit system passing from Caloocan all the way to Baclaran.

Senator Flavier. Again, this should be established by the Commission. Because implicit in what the gentleman is saying is, that when we say sound, it is too broad. And what I heard the gentleman was asking is more explicit and zeroed or focused definition.

Senator Enrile. My final question is: Sound is addressed to the ear; the air is addressed to the lungs. Why do we mix these two together?

Senator Flavier. Maybe because the sound passes through air.

Senator Enrile. But it has nothing to do with the cleanness of the air.

Senator Flavier. In a broader definition, we are using the word pollution to include also the sound. But if it will clutter the bill...

Senator Enrile. But the title of the bill is: "An Act Providing for a Comprehensive Air Pollution Control."

Why do we not file another bill, an anti-noise bill rather than mixing these two together?

Senator Flavier. That would be acceptable to me, Mr. President.

Senator Enrile. Because there are so many kinds of noises that will have to proscribe.

Senator Flavier. That is true. If the principal sponsor will allow, I will accept that suggestion to segregate it. If only so I can already sit down.

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

Senator Flavier. I would like to thank the gentleman for the excellent questions. I learned a lot.

The President. Thank you Senator Juan Ponce Enrile.

The Majority Leader is recognized.

Senator Drilon. Mr. President, while there are a number of other senators who expressed their desire to interpellate, we have to adjourn our session as there is a coming storm.

ADJOURNMENT OF SESSION

So, therefore, Mr. President, we move to adjourn our session for today until three o'clock tomorrow afternoon, October 14, 1998.

May I inform our colleagues that we will resume consideration of this Clean Air Act tomorrow. Also, we will have on the floor the sponsorship for the Committee Report of the Committee on Justice and Human Rights on the abolition of the PCGG.

The President. There is a motion to adjourn the session until three o'clock tomorrow afternoon, October 14. Is there any objection? [*Silence*] There being none, the session is adjourned.

It was 6:34 p.m.